

## **EXHIBIT B**

Kelvin Daniel

Daniel v. Swift

6/12/2012

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

KELVIN D. DANIEL, on Behalf of Himself and All Others  
Similarly Situated,  
)  
)  
)  
)  
) No. 2:11-cv-01548-PHX-ROS  
TANNA HODGES, on Behalf of Herself and All Others  
Similarly Situated,  
)  
) THE DEPOSITION  
) OF  
) KELVIN DANIEL  
ROBERT R. BELL, JR., on Behalf of Himself and All Others  
Similarly Situated,  
)  
)  
) Plaintiffs,  
) Phoenix, Arizona  
vs. ) June 12, 2012  
) 9:32 a.m.  
SWIFT TRANSPORTATION CORPORATION,  
)  
)  
) Defendant.

(CONDENSED COPY)

PREPARED FOR: REPORTED BY:  
Marty Herder, CCR #50162  
Jennifer Smith, CCR #50180  
MR. BRIAN J. FOSTER Certified Court Reporters  
Attorney at Law

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1 THE DEPOSITION OF KELVIN DANIEL,  
2 Taken at 9:32 a.m., on June 12, 2012, at the Law Offices of  
3 SNELL & WILMER L.L.P., 400 East Van Buren, Suite 1900,  
4 Phoenix, Arizona, 85004, before Marty Herder and Jennifer  
5 Smith, Certified Court Reporters, pursuant to the Rules of  
6 Civil Procedure.  
7  
8 COUNSEL APPEARING:  
9 For the Plaintiffs:  
10 STUMPHAUZER O'TOOLE MCLAUGHLIN MCGLAMERY & LOUGHMAN COMPANY  
BY: Dennis M. O'Toole, Esq.  
11 5455 Detroit Road  
Seffield Village, Ohio 44054  
12  
13 For the Defendant:  
14 SNELL & WILMER L.L.P.  
BY: Brian J. Foster, Esq.  
15 Joseph A. Kroeger, Esq.  
400 East Van Buren  
16 Suite 1900  
Phoenix, Arizona 85004  
17  
Michelle Deutsch, Esq.  
18 General Counsel, Swift Transportation  
19  
20 Also present: Brent Jensen, videographer  
21  
22  
23  
24  
25

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2 Examination By: Page:  
3 Mr. Kroeger 5  
4  
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6  
7

## 8 EXHIBITS

9 No. 25 Photocopy of three pictures, Bates 21  
labeled SDT-CRE000008  
10  
11 No. 26 Plaintiff Kelvin D. Daniel's Answers to  
Defendant Swift Transportation Co. of  
Arizona, LLC's First Set of Non-Uniform  
12 Interrogatories 27  
13 No. 27 Driver application, dated 2-21-11; Bates  
labeled SDT-CRE000019 through SDT-CRE000023 61  
14  
15 No. 28 USIS Widescreen National Criminal Search 88  
16  
17 No. 29 Important Notice Regarding Background  
Reports From PSP Online Service, 2-21-11 92  
18  
19 No. 30 HireRight DAC Trucking Disclosure and  
Authorization For Release of Information  
20 For Employment Purposes, 2-22-11 96  
21  
22 No. 31 (No exhibit 31 was marked.)  
No. 32 (No exhibit 32 was marked.)  
23 No. 33 Swift Online Application, 12-27-10 118  
24 No. 34 Widescreen National Criminal Search  
12-28-10 133  
25

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1 Phoenix, Arizona  
June 12, 2012  
2 9:32 a.m.  
3  
4

## 5 PROCEEDINGS

6  
7 THE VIDEOGRAPHER: Good morning. My name is Brent  
8 Jensen, certified legal-video specialist with K-Video  
9 Productions.

10 Our court reporter is Marty Herder representing  
11 Arizona Litigation Support. Their address is One East  
12 Washington Street in Phoenix, Arizona.

13 We are at the law offices of Snell & Wilmer,  
14 400 East Van Buren Street, in Phoenix, Arizona, to take the  
15 deposition of Kelvin Daniel, on behalf of the defendants, in  
16 the United States District Court of Arizona case of Daniel,  
17 et al., versus Swift Transportation Corporation, Case  
18 No. 2:11-cv-01548-PHX-ROS.

19 The date is June 12, 2012, and the time is  
20 approximately 9:34 a.m.

21 The attorneys will now introduce themselves.  
22 Plaintiffs first, please.

23 MR. O'TOOLE: Dennis O'Toole, attorney for  
24 plaintiff.

25 MR. KROEGER: Joseph Kroeger, Snell & Wilmer,

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<p>1 situation, but I guess you can ask whatever question you 2 want to ask. Her name is Rachel.</p> <p>3 Q. And do you know Rachel's last name? 4 A. Devour.</p> <p>5 Q. And how do you spell that? 6 A. Like devour.</p> <p>7 Q. D-e-v-o-u-r? 8 A. Yes.</p> <p>9 Q. And her home town? 10 A. I don't know where she at right now.</p> <p>11 Q. Is there anything that would help you remember 12 that information? 13 A. I don't know where that woman is.</p> <p>14 Q. Do you have a phone number? 15 A. I don't have a number, nothing.</p> <p>16 Q. Do you know anybody who knows her? 17 MR. O'TOOLE: Objection. I'll just show a 18 continuing objection to these lines of questioning.</p> <p>19 MR. KROEGER: I'll move on as soon as I find out 20 if he has this information.</p> <p>21 Q. BY MR. KROEGER: Do you know anybody who knows 22 her? 23 A. No. I don't know where she at, whatever. Still 24 don't think it's right.</p> <p>25 Q. So you submitted a web application to Swift</p>	<p>1 Q. Your testimony earlier was that it was December or 2 January and now I'm asking you, does --</p> <p>3 A. I know it was after my birthday, so --</p> <p>4 Q. If you could, please, let's just finish the 5 question. 6 Does this application refresh your memory and is 7 December 27th --</p> <p>8 A. No, this doesn't refresh my memory, but I know I 9 applied after my birthday.</p> <p>10 Q. Did you apply on December 27th, 2010? 11 A. I guess I did.</p> <p>12 Q. Do you have any reason to believe that that date 13 is inaccurate in any way? 14 A. I just know it was after my birthday when I 15 applied.</p> <p>16 Q. That's not my question, Mr. Daniel. It is do you 17 have any reason to believe that date is inaccurate? 18 A. If that's what the system says, then evidently 19 that's when I applied. I can't remember at this time what 20 the exact date was, but I know it was after my birthday.</p> <p>21 Q. When is your birthday? 22 A. December 25th.</p> <p>23 Q. Looking at this document, did you submit this 24 online application to Swift? 25 A. I submitted it an online application and this had</p>
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<p>1 Transportation. Do you know if you authorized a criminal 2 background check on that application? 3 A. No.</p> <p>4 Q. Do you have any specific recollection one way or 5 another? 6 A. I can't even remember, no.</p> <p>7 MR. KROEGER: Can you mark that 33, please? 8 (Deposition Exhibit No. 33 was marked for 9 identification.)</p> <p>10 Q. BY MR. KROEGER: Mr. Daniel, you've been handed 11 what has been marked as Exhibit 33. At the top of the page, 12 it says, "Driver Recruiting Process - Online Application". 13 Did I read that correctly? 14 A. Yes, sir.</p> <p>15 Q. And above that, it has the Swift corporate logo, 16 is that correct? 17 A. Yes, sir.</p> <p>18 Q. Below that on the right-hand side, it says, 19 "Application date, December 27th, 2010". Do you see that? 20 A. Yes, sir.</p> <p>21 Q. Does that fresh your recollection as to when you 22 submitted your application to Swift? 23 A. I told you it had to be around that time. I said 24 that's what I was telling him earlier that it was after my 25 birthday.</p>	<p>1 to be the one that I submitted because I was staying in 2 Natomas at the time, Natomas, California.</p> <p>3 Q. And looking at the last page of that application, 4 do you see down in the middle, do you see the word 5 "Acknowledgement"? 6 A. Yes, sir.</p> <p>7 Q. Do you remember viewing that acknowledgement? 8 A. I don't remember.</p> <p>9 Q. Do you see at the very bottom of the page a 10 "Submit" button? 11 A. Yes, sir.</p> <p>12 Q. Do you remember clicking the submit button? 13 A. I remember submitting the application. I don't 14 remember clicking the button or whatever. I remember 15 submitting the application, yes.</p> <p>16 Q. You don't remember if you read the acknowledgement 17 language? 18 A. Quite sure I did if I submitted the application.</p> <p>19 Q. And just above that submit button, right above it, 20 that last paragraph, could you please read that? 21 A. "I have read carefully the above information and 22 understand" -- oh, hold on. "I have read carefully the 23 above information, understand and accept the contents 24 thereof. This certifies that this application was completed 25 by me and that all entries on it and information in it are</p>

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<p>1 Q. You testified earlier that it was common knowledge 2 in the trucking school, that trucking companies would run 3 criminal background checks. Do you remember that testimony? 4 A. No, I don't. 5 Q. You testified this morning that you've always 6 agreed or signed language that requested a criminal 7 background history. Do you remember that testimony? 8 A. No. 9 Q. If you could please turn to the first page of 10 Exhibit 33, down towards the bottom of the page, do you see 11 a button that says "Continue"? 12 A. Yes. 13 Q. And two lines above that, there's a question. 14 Could you please read that question? 15 A. "May we request information on your" -- hold on. 16 "May we request information on you from outside consumer 17 reporting agencies?" 18 Q. And to the right of that, is yes or no checked? 19 A. Yes is checked. 20 Q. Okay. Do you recall this question? 21 A. I mean, by me reading it now, I can explain to you 22 probably what I was thinking at that time. 23 Q. And what was that? 24 A. It had something to do with work history or -- I 25 can't tell this company what they can do. I'm trying to get</p>	<p>1 A. No. 2 Q. Was that response truthful? 3 A. Yes. And probably was looked at and read wrong, 4 too, the way it was wrote because I've never been convicted 5 of a crime in California or marijuana related crime, 6 anything about California. "Have you ever been convicted of 7 a criminal offense in California?" No. 8 Q. And that's what you believe the question asks? 9 A. Right. 10 Q. On the day that you filled this out, that was what 11 you believe that question asked you? 12 A. Yes. 13 Q. And sitting here today, is that what you believe 14 that question asked you? 15 A. That's the way it looks, but as I see this 16 punctuation, "Have you ever been convicted of a criminal 17 offense", no, no felony convictions. 18 Q. So this application was submitted on December 19 27th, 2010? 20 A. Yes. 21 Q. You mentioned earlier that you had contact with an 22 individual over the phone named Doug Driscoll and you said 23 it was after the application. How long after the 24 application until you spoke with Doug Driscoll? 25 A. I can't remember that. I can't remember that. I</p>
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<p>1 a job from them. That's pretty much why I answered it, but 2 I don't know what a consumer report agency is. Actually, 3 that's my first time ever hearing something from that. I'm 4 from Georgia. You don't hear stuff like that, so -- 5 Q. You physically clicked on the box that said yes? 6 A. Yeah, I put yes. I gave you all the right to do 7 whatever you all want to do. You can violate, violate me. 8 Q. If you could turn to the second page, please? 9 About two-thirds of the way down, the question -- there's a 10 question, it's the third from the very last section in the 11 middle section. I'll point to it here so that -- Mr. 12 Daniel, when you get a chance to look up, I'll show you the 13 area I'm going to read. 14 A. Yes. 15 Q. I'm going to read this question now. 16 A. Still can't see. 17 Q. It's the third question up from under -- from 18 above, "Please complete this information." Okay? 19 A. Okay. 20 Q. Now, that question reads, "Have you ever been 21 convicted of a criminal offense?" Did I read that question 22 correctly? 23 A. Yes, sir. 24 Q. And to the right of that question, what was your 25 response?</p>	<p>1 know he got in contact with me. 2 Q. Was it within a week? 3 A. Yeah, because New Year's came. I think it was in 4 January. No, it was -- I can't remember. I can't remember, 5 but I know he got a contact to me at the house to submit an 6 application. 7 Q. Well, did -- in that phone call, did Mr. Driscoll 8 schedule an orientation -- 9 A. Yes. 10 Q. -- for you? 11 A. Yes. Also did a background on me. 12 Q. And did Mr. Driscoll tell you that he was going to 13 do a background check? 14 A. He said he cleared me. I was cleared before I 15 even went to orientation. 16 Q. Okay. And do you know if Swift obtained a 17 criminal background check on you? 18 A. No. No, I got no information about it, but they 19 -- but I can say they told me -- that's why they sent me 20 back, pull me out of orientation or something and send me 21 back to Sacramento, told me they want to do a further 22 background on me and I called you all's investigators here 23 in Phoenix. 24 Q. Okay. And I understand, but my question before, 25 so within -- sometime within a week of your submitting your</p>

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<p>1 application, you talked -- you spoke with Mr. Driscoll, he 2 told you that your criminal background check was clean and 3 he scheduled an orientation? 4 A. Yeah. 5 Q. Okay. 6 (Deposition Exhibit No. 34 was marked for 7 identification.) 8 THE WITNESS: This is boring me. 9 Q. BY MR. KROEGER: What's that? 10 A. This is so boring. 11 Q. I get accused of that a lot. So you've been 12 handed what is marked as Exhibit 13 34. At the top, it says, "Widescreen National 14 Criminal Search", correct? 15 A. "Widescreen National Criminal Search", yes, sir. 16 Q. And just below that, it says, "Customer: Swift 17 Transportation Web", is that correct? 18 A. Yes. 19 Q. And coming down a few lines, do you see the line 20 that says "Name"? 21 A. Yes. 22 Q. And after that, it says, "Daniel, Kelvin D.", 23 correct? 24 A. Yes. Where the "Name" is, it says, "Daniel, 25 Kelvin D." where "Name" is.</p>	<p>1 A. He told me I was clear before I went to 2 orientation. He really didn't know what was going on. 3 Q. Okay. To be clear, he told you that he had 4 reviewed it before scheduling you for orientation and it was 5 clean? 6 A. I was clean before I went to orientation. 7 Q. And looking at this document, I would agree with 8 you, it appears to my eyes to be clean. Would you agree 9 that there is no identification of any criminal convictions 10 on this one sheet of paper in front of you, Exhibit 34? 11 A. No record found. 12 Q. Okay. It says, "No record found in jurisdiction 13 searched", correct? 14 A. Correct. 15 Q. Now, looking at this document, as you just said, 16 Swift had no way -- would have no way of knowing that you 17 had any criminal convictions, correct? 18 A. Looking at this document, I guess not, no record 19 found in jurisdiction searched. 20 Q. And looking back at Exhibit 33, the application, 21 you answered no to the question, "Have you ever been 22 convicted of a criminal offense", do you remember that? 23 A. Yes. 24 Q. So Swift having your application and your criminal 25 background report had no way of knowing about any prior</p>
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<p>1 Q. Good. Okay. Now, going down one, two, three 2 lines, do you see the one that begins "Search Area"? 3 A. "Search Date" -- oh, okay. Yeah, "Nationwide". 4 Q. Okay. And one line below that, do you see where 5 it says "Request Date"? 6 A. Yes. 7 Q. And what date does it give for the request day? 8 A. 12/28/2010. 9 Q. And that is one day after the application that we 10 just looked at? 11 A. Yes, sir. 12 Q. And when you spoke with Doug Driscoll, he told you 13 that your criminal background check had already come back 14 clean, is that not right? 15 A. No, he told me after the fact when they sent me 16 home. Mr. Driscoll's a professional guy and I'm not doing 17 this to slander him in no kind of way. When I was asking 18 him questions why they sending me home, why do I have to do 19 a further background, pretty much like, "Why did you all 20 waste my time", and he was like he really don't know. I 21 said, "Well, if I had to go through -- why didn't you just 22 tell me this?" He's like, "I cleared you. I cleared your 23 background. I don't even know what's going on, Kelvin." 24 Q. So he told you that he had viewed your criminal 25 background report and it was clean?</p>	<p>1 criminal history on your part? 2 A. I don't know what they have -- what they know, but 3 I know I don't have a criminal record. 4 Q. And Swift invited you to attend an orientation? 5 A. I was in orientation. 6 Q. When did -- 7 A. I got a card. I got a card, debit card, 8 everything. Asked me to get on the road. That's what 9 happened, sir. 10 Q. When did the orientation occur? 11 A. I couldn't tell you that, sir. I have to do some 12 research, paperwork stuff I got put up. Quite sure I got it 13 somewhere. 14 Q. Would January 25th, 2011 sound accurate? 15 A. I can't raise my hand on that, sir. Sorry. 16 Q. It's approximately one month later. Does that 17 sound right? 18 A. I can't remember that date, sir. I'm sorry. 19 That's not -- I can't remember that date, but I do -- I can 20 do my research and give it to my attorneys and everything if 21 I haven't already done so. 22 MR. KROEGER: Dennis, I can either pull out the 23 complaint to confirm it or I can have it -- or if you can 24 stipulate the January 25th since that's what the complaint 25 states.</p>

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<p>1 MR. O'TOOLE: Whatever the date is, I think he's</p> <p>2 saying that he went, he just doesn't recall the date. If</p> <p>3 it's January 25th and you've got a record of that, that's</p> <p>4 fine. I mean, I'll be glad to stipulate to it.</p> <p>5 MR. KROEGER: I'm going off --</p> <p>6 MR. O'TOOLE: I don't think he would lie about it.</p> <p>7 That's fine. Whenever it was, it was.</p> <p>8 Q. BY MR. KROEGER: Tell me what you remember about</p> <p>9 Swift's orientation.</p> <p>10 A. It was very foggy that day, thick. Me being a</p> <p>11 truck driver now and my experiences I've been through, it</p> <p>12 was wise of them to not put us on the road that morning</p> <p>13 until the fog let up. Okay. So he said, "When noontime</p> <p>14 comes, we gonna see if the fog let up." He said, "This is a</p> <p>15 big class." He said, "This class -- we don't have enough</p> <p>16 trainers here today to put everybody on the road." So</p> <p>17 that's when I guess the guy of operations came in and said,</p> <p>18 "No, we did" -- he passed out stuff and all that, did, you</p> <p>19 know, what you do in orientation and he said -- you hear me,</p> <p>20 sir? You hear me?</p> <p>21 Q. Yeah, I did and I do apologize. I did get</p> <p>22 distracted. I just -- this is not because of anything you</p> <p>23 said. I'm just trying to get a clear record.</p> <p>24 Do you have any reason to believe that your</p> <p>25 orientation did not begin on January 24th, 2011?</p>	<p>1 Q. Do you remember sitting in a classroom and being</p> <p>2 spoken to by representatives of Swift?</p> <p>3 A. Yes.</p> <p>4 Q. Do you remember a portion of that presentation</p> <p>5 when a Swift employee walked you through the Swift</p> <p>6 employment application?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And do you remember an individual named Chad</p> <p>9 Baumgarner?</p> <p>10 A. That name Chad rings a bell.</p> <p>11 Q. Do you remember if he was the person who went</p> <p>12 through that employment application?</p> <p>13 A. The guy that was in charge, not the head guy, the</p> <p>14 top guy, but I think he was Chad. It was Chad.</p> <p>15 Q. And do you remember him putting the application</p> <p>16 questions up on a projector screen?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And there were highlighted sections of the</p> <p>19 application?</p> <p>20 A. I don't remember that if it was highlighted</p> <p>21 sections.</p> <p>22 Q. Do you remember him discussing the criminal</p> <p>23 conviction question on the application?</p> <p>24 A. Yes, sir.</p> <p>25 Q. And he told all of the applicants that they had to</p>
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<p>1 A. I thought you said 25th?</p> <p>2 Q. I did. I did. And that's why I'm correcting</p> <p>3 myself. Do you have any reason to believe your orientation</p> <p>4 did not begin on January 24th?</p> <p>5 A. I just can't remember the dates.</p> <p>6 Q. And I'm not asking you to. I'm saying do you have</p> <p>7 any reason not to believe that it occurred on January --</p> <p>8 that it began on --</p> <p>9 A. I mean, I would like to -- I would like to</p> <p>10 actually see the facts before I raise my hand to that.</p> <p>11 MR. O'TOOLE: I'll state on the record that I</p> <p>12 think it was the 24th. That's what we alleged in the</p> <p>13 complaint, just to let you know.</p> <p>14 THE WITNESS: Okay. All right.</p> <p>15 Q. BY MR. KROEGER: Okay. Now, the orientation</p> <p>16 itself, you explained some of your recollection. Do you</p> <p>17 remember a portion of the orientation when you sat in the</p> <p>18 classroom?</p> <p>19 A. Do I remember the orientation?</p> <p>20 Q. Do you remember a portion where you sat in the</p> <p>21 classroom?</p> <p>22 A. We were just sitting wait -- socializing waiting</p> <p>23 for the fog to lift up because it was just too dangerous to</p> <p>24 put rookies out there like that in that fog for a road test.</p> <p>25 We was there for a road test.</p>	<p>1 be honest on that question, correct?</p> <p>2 A. Well, actually, I asked him a question, you know?</p> <p>3 Like I said, if I don't understand something, that's me, I'm</p> <p>4 gonna raise my hand. I'm gonna ask a question. So I said</p> <p>5 -- he was saying, "Okay. This is the time now. Whatever</p> <p>6 you put on the application, put it down now", and then I</p> <p>7 asked the question was, "Do it matter when it happen?" He</p> <p>8 said, "Don't matter. Put down anything you think, you know,</p> <p>9 whatever would have happened." He just said -- I'm sorry.</p> <p>10 I know you typing over there. And that's when I said,</p> <p>11 "Okay." I said, "So it doesn't matter how long it's been?"</p> <p>12 He said, "Don't matter", so I just start putting out old</p> <p>13 stuff.</p> <p>14 Q. So in response to --</p> <p>15 A. Trying to be honest.</p> <p>16 Q. And I appreciate that. In response to Chad's</p> <p>17 prompting, you revealed to him the criminal background that</p> <p>18 we discussed earlier?</p> <p>19 A. No, I revealed to him things that has happened</p> <p>20 more than ten years ago, longer than ten years ago. Sorry.</p> <p>21 Q. How about the information from the public</p> <p>22 intoxication in 2008, did you discuss that with Mr.</p> <p>23 Baumgarner?</p> <p>24 A. I believe I did.</p> <p>25 Q. So it wasn't just things more than ten years ago,</p>

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<p>1 was it?</p> <p>2 A. Well, actually, I was -- I wasn't sure if it was</p> <p>3 on my record or not and I just wanted to talk to him about</p> <p>4 that situation that happened because as far as I look at it,</p> <p>5 it's the past.</p> <p>6 Q. How did you inform Chad Baumgarner about this</p> <p>7 criminal background?</p> <p>8 A. You talking about old charges?</p> <p>9 Q. Correct.</p> <p>10 A. That's what you're talking about?</p> <p>11 Q. How did you inform him?</p> <p>12 A. Like I said, he said to come clean. If it's not</p> <p>13 on the application, put it down now regardless of how long</p> <p>14 it's been and everything, today is the day to do it and I</p> <p>15 did it.</p> <p>16 Q. And you testified earlier that Doug Driscoll had</p> <p>17 told you, "Your background check is clean. Let's go ahead</p> <p>18 and set you up for" --</p> <p>19 A. He said it afterwards.</p> <p>20 Q. He said it afterwards?</p> <p>21 A. He didn't tell me that not during class or before</p> <p>22 class.</p> <p>23 Q. Right.</p> <p>24 A. He just called me back and told me my orientation</p> <p>25 day is this, Lathrop, California, blah, blah, blah. Don't</p>	<p>1 Q. And after that, you spoke on the phone with Doug</p> <p>2 Driscoll and he scheduled you for an orientation?</p> <p>3 A. Yes.</p> <p>4 Q. And then you appeared at orientation and met with</p> <p>5 Chad Baumgarner?</p> <p>6 A. Yes.</p> <p>7 Q. Do you remember Chad Baumgarner filling out</p> <p>8 something called a conviction form?</p> <p>9 A. No, I can't remember, sir.</p> <p>10 Q. When you spoke with him, do you recall him filling</p> <p>11 out any paperwork?</p> <p>12 A. All I know is he called me out of the classroom</p> <p>13 and told me that he got to do a further background on me,</p> <p>14 further investigation. He didn't even tell me to pack up</p> <p>15 and leave the room. I had to call Doug and ask Doug, I</p> <p>16 said, "Do I suppose to go back to Sacramento? Do I stay</p> <p>17 here until you do the background?" He says, "No, you gotta</p> <p>18 go back to Sacramento and call the investigators." That's</p> <p>19 when he told me that he had cleared me. He really didn't</p> <p>20 know what was going on.</p> <p>21 Q. Okay. I think I understand it. If I can -- and</p> <p>22 just to make sure that I understand it better, did you</p> <p>23 approach Chad in the front of the room? How did you</p> <p>24 approach him to tell him?</p> <p>25 A. No, it was all in the classroom and I --</p>
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<p>1 type that down when I say, "Blah, blah, blah." I said,</p> <p>2 "Well, can you send me to Atlanta?" He's like, "No, I can't</p> <p>3 send you to Atlanta", because I was trying to really get</p> <p>4 away from that girl and a blizzard hit Atlanta at that time,</p> <p>5 so he kept me out at Lathrop, "You're going to have to train</p> <p>6 out at Lathrop."</p> <p>7 Q. So your conversations with Doug, they were over</p> <p>8 the phone and you were talking with him about where your</p> <p>9 orientation would be, correct?</p> <p>10 A. Right.</p> <p>11 Q. And he scheduled you in California?</p> <p>12 A. Lathrop.</p> <p>13 Q. And you showed up for your orientation. Now, that</p> <p>14 was the first time that you had talked face to face with</p> <p>15 anyone from Swift, right?</p> <p>16 A. No, they had a room. They assigned me to a room.</p> <p>17 I had to go check in and they put me in a room to the next</p> <p>18 morning. The next morning, I was in orientation.</p> <p>19 Q. Okay. I just want to make sure I have the</p> <p>20 sequence of things. December 27th, 2010 is your employment</p> <p>21 application, right?</p> <p>22 A. Right.</p> <p>23 Q. Now, December 28th, 2010, there's a background</p> <p>24 check that we reviewed, right?</p> <p>25 A. Right.</p>	<p>1 Q. You raised your hand?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And did you talk about it in front of the</p> <p>4 classroom?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And then you mentioned being out in the hall. Did</p> <p>7 he ask you to step out into the hall?</p> <p>8 A. Well, he was -- they started getting rid of</p> <p>9 people.</p> <p>10 Q. Okay.</p> <p>11 A. You know, a lot of Hispanics saying they couldn't</p> <p>12 speak English well enough.</p> <p>13 Q. Okay.</p> <p>14 A. Which didn't seem right to me because one of the</p> <p>15 guys was my roommate and we talked like two Americans all</p> <p>16 night laughing. So at the end, they called me up and took</p> <p>17 me in the office. I guess that was the head guy. Went in</p> <p>18 the office with him and Chad turned around, told me, "We</p> <p>19 gonna have to do a further background on you", and whatever,</p> <p>20 whatever, and I was like, "Why? I'm clean. My record's</p> <p>21 clean." He was like, "We'll get back in touch with you",</p> <p>22 this, that and the other, you know, "You need to call the</p> <p>23 investigators", and stuff like that. I'm like -- but he</p> <p>24 didn't tell me to pack up, leave the room, whatever. He</p> <p>25 send me back to the room and so I had to call Doug, "Doug,</p>

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<p style="text-align: right;">Page 145</p> <p>1 what do I do next? Do I stay here? Do I call the 2 investigators at home or here?" He said, "You gotta go back 3 to Sacramento, talk with the investigators." 4 Q. And so did you return to Sacramento at that point? 5 A. I returned to Sacramento the next day, the next 6 morning. 7 Q. And did you ever speak with the investigators? 8 A. I called the investigators here in Phoenix. 9 Q. And when did you do that? 10 A. Oh, man, after I was told to leave, I -- 11 Q. When you returned to Sacramento? 12 A. When I returned to Sacramento, I called the 13 investigator when I got to Sacramento. 14 Q. Was it that same day, next day, next week? 15 A. It had to be that same day because she came and 16 got me that morning. She came and got me that morning. 17 Q. When you say, "She came and got me", was this by 18 phone? 19 A. She came to pick me up, my ride. 20 Q. And who is "she"? 21 A. Rachel. 22 Q. Oh, okay. Rachel. Rachel Devour. 23 A. Yep. 24 Q. So when -- do you recall when you spoke with an 25 investigator from Swift?</p>	<p style="text-align: right;">Page 147</p> <p>1 criminal information at orientation? 2 A. I don't know what to think. I just know I was 3 denied. 4 Q. Do you -- you admit that as we've discussed 5 before, when Swift had no criminal information about you, 6 that they extended an offer to come to orientation, right? 7 A. Right. 8 Q. And you would admit that after orientation and 9 after having criminal information for the first time, that 10 they decided to not proceed with your employment, would you 11 admit that? 12 A. I don't know if that was the case, but I know I 13 was correcting things. I was making sure I was having 14 everything right. I wasn't trying to hide that information 15 at all. That's what I'm saying. 16 Q. Do you think Swift thought you were trying to hide 17 information? 18 A. I don't know what Swift was -- I can't speak how 19 they was thinking. I just know I was denied and I -- well, 20 nobody tell me anything. I had to call another Swift office 21 to find out that I was denied and then I had to have that 22 office transfer me to Doug because Doug wasn't answering his 23 phone when he was at first. Then he told me the same thing 24 that office told me, that I'd been denied. He can't bring 25 me on. I was like, "Oh, okay. Why?" "I don't know, man."</p>
<p style="text-align: right;">Page 146</p> <p>1 A. It had to be that same day because I immediately 2 called her. I immediately got on the phone with them and 3 called her. 4 Q. You said you called her. Was the person a female? 5 A. Yes, she was a female. 6 Q. Does the name Bernice Ruiz sound familiar? 7 A. She sounded like she was Hispanic. 8 Q. And that interview was by phone? 9 A. Yes. 10 Q. And what do you remember about that call? 11 A. She just asked me questions about what I, you 12 know, told Chad about the reckless conduct charge and the 13 simple battery charge. She just asked me the same thing. I 14 explained it to her, you know, and I explained it to her. 15 She said, "Well, we be getting back in contact with you in 16 about a week or so", I believe, and I never heard anything. 17 So I did some tracking down myself to find out that I had 18 been denied and could nobody tell me why. 19 Q. Do you have a belief as to why you were denied 20 employment? 21 A. I have no idea. 22 Q. Do you think it had to do with your call to 23 investigations? 24 A. No. 25 Q. Do you think it had to do with you revealing this</p>	<p style="text-align: right;">Page 148</p> <p>1 That's what happened. 2 Q. If you wouldn't mind turning back to the Swift 3 application which looks like the one on the left there, if 4 could you turn to the last page, the "Acknowledgement"? 5 Now, the third paragraph from the bottom, it starts with, "I 6 understand." Do you see that? 7 A. Yeah, I see it. Well, actually, you said the 8 third one? 9 Q. From the bottom that starts, "I understand" -- 10 A. Okay. It's small. 11 Q. You're right. Could you please read the first 12 sentence of that paragraph out loud, please? 13 A. "I understand that any offer of employment" -- 14 Q. No. I'm sorry. 15 A. -- "intended up" -- 16 Q. If you could please stop. I'm sorry. Two 17 paragraphs below that, it also starts with, "I understand 18 and agree." 19 A. "I understand and agree that any misrepresented, 20 inaccurate, misleading, incomplete or omitted information 21 provided by me in this application will be sufficient cause 22 for cancellation of this application and/or separation from 23 the company service if employed. Further, I understand" -- 24 Q. That's it. Just that sentence, please. Do you 25 understand what that sentence says?</p>

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**EXHIBIT C**

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Page 1		Page 3	
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA			
KELVIN D. DANIEL, on Behalf of Himself and All Others Similarly Situated,	)		
and	)		
	) No. 2:11-cv-01548-PHX-ROS		
TANNA HODGES, on Behalf of Herself and All Others Similarly Situated,	)		
and	)		
	) THE DEPOSITION OF		
	) TANNA HODGES		
ROBERT R. BELL, JR., on Behalf of Himself and All Others Similarly Situated,	) (videotaped)		
	)		
	) Plaintiffs,		
	) Phoenix, Arizona		
vs	) June 11, 2012		
	) 9:21 a.m.		
SWIFT TRANSPORTATION CORPORATION,	)		
	) Defendant		
(CONDENSED COPY)			
PREPARED FOR	REPORTED BY:		
	Az Litigation Support, LLC		
	Marty Herder, CCR		
MR. BRIAN J. FOSTER	Certified Court Reporter		
Attorney at Law	CCR No. 50162		
© AZ LITIGATION SUPPORT (480)481-0649			
Page 2		Page 4	
INDEX		THE DEPOSITION OF TANNA HODGES,	
1 Examination By:	Page:	2 Taken at 9:21 a.m., on June 11, 2012, at the Law Offices of	
3 Mr. Foster	6	3 SNELL & WILMER L.L.P., 400 East Van Buren, Suite 1900,	
4		4 Phoenix, Arizona, 85004, before Marty Herder, Certified	
5		5 Court Reporter, pursuant to the Rules of Civil Procedure	
6		6	
7		7 COUNSEL APPEARING	
8		8 For the Plaintiffs:	
9 EXHIBITS		9 STUMPHAUZER, O'TOOLE MCLAUGHLIN MCGLAMERY & LOUGHMAN COMPANY	
10 No. 1 Employment application, dated 9-29-09	130	10 BY: Dennis M. O'Toole, Esq.	
11 No. 2 Consent form, dated 10-13-08	32	11 5455 Detroit Road	
12 No. 3 Employment application, dated 7-31-08	36	12 Seelfield Village, Ohio 44054	
13 No. 4 Employment application, dated 11-6-08	105	13	
14 No. 5 Plaintiff Tanna Hodges' Answers to Defendant Swift Transportation's First Set of Nonuniform Interrogatories	41	14 For the Defendant:	
15 No. 6 Pre-employment drug testing and background screening form	46	15 SNELL & WILMER L.L.P.	
16		16 BY: Brian J. Foster, Esq.	
17 No. 7 Authorization, dated 6-23-10	47	17 Joseph A. Krueger, Esq.	
18		18 400 East Van Buren	
19 No. 8 SafeScreen background report, dated 6-24-10	49	19 Suite 1900	
20 No. 9 20/20 Insight report	59	20 Phoenix, Arizona 85004	
21 No. 10 Employment application, dated 7-31-08	78	21 SWIFT TRANSPORTATION	
22 No. 11 Employment application, dated 7-31-08	86	22 BY: Michelle Tamara Deutsch, Esq.	
23 No. 12 Letter from USA Truck, Inc.	90	23 2200 South 75th Avenue	
24 No. 13 Employment application, dated 7-31-08	91	24 Phoenix, Arizona 85043	
25 No. 14 Employment application, dated 11-6-08	96	25 Also present: Brent Jensen, videographer	

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<p>1 A. I think twice.</p> <p>2 Q. And what position did you apply for there?</p> <p>3 A. Over-the-road driver.</p> <p>4 Q. On both occasions?</p> <p>5 A. Yes.</p> <p>6 Q. Have you ever applied for a job at Swift other</p> <p>7 than over-the-road driver?</p> <p>8 A. No.</p> <p>9 Q. When was the first time that you applied for a job</p> <p>10 at Swift?</p> <p>11 A. I don't recall.</p> <p>12 I think the first time was when I was in school.</p> <p>13 Right?</p> <p>14 Q. Was what?</p> <p>15 A. I think it was when I was in school.</p> <p>16 Q. How did you submit your application for employment</p> <p>17 at Swift the first time?</p> <p>18 A. Online.</p> <p>19 Q. The first time you applied online.</p> <p>20 A. Yes.</p> <p>21 Q. How did you submit your application for Swift the</p> <p>22 second time?</p> <p>23 A. I went in person.</p> <p>24 Q. I'm going to go ahead and show you what I've</p> <p>25 marked as Exhibit 1 to your deposition.</p>	<p>1 Q. Take a look at this application.</p> <p>2 My question to you is: Is this the first</p> <p>3 application you filled out at Swift?</p> <p>4 A. I don't recall.</p> <p>5 Q. This is not an online application; correct?</p> <p>6 A. Yes.</p> <p>7 Q. It's not?</p> <p>8 A. I don't guess it is. I don't know.</p> <p>9 Q. Well, no, it's handwritten. It's your writing;</p> <p>10 right?</p> <p>11 A. Okay. Okay.</p> <p>12 Q. So this is not an online --</p> <p>13 A. Okay.</p> <p>14 Q. -- application; correct?</p> <p>15 A. Okay.</p> <p>16 Q. Is that true?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So on September 25th, 2009, you filled out</p> <p>19 this application; right?</p> <p>20 A. Yes.</p> <p>21 Q. And who did you turn it in to?</p> <p>22 A. I believe it was the San Antonio office.</p> <p>23 Q. How would you have of in person turned it in in</p> <p>24 San Antonio?</p> <p>25 A. I was there.</p>
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<p>1 (Deposition Exhibit No. 1 was marked for</p> <p>2 identification by the reporter.)</p> <p>3 BY MR. FOSTER:</p> <p>4 Q. Did you recognize Exhibit 1 --</p> <p>5 A. Yes.</p> <p>6 Q. -- as a -- hang on a second. Let me have that one</p> <p>7 back for a second.</p> <p>8 I'm going to show you what I'm going to have</p> <p>9 marked as Exhibit 24 to your deposition.</p> <p>10 (Deposition Exhibit No. 24 was marked for</p> <p>11 identification by the reporter.)</p> <p>12 BY MR. FOSTER:</p> <p>13 Q. Do you recognize Exhibit 24 as an application for</p> <p>14 employment at Swift that you filled out on September 25,</p> <p>15 2009?</p> <p>16 A. Yes.</p> <p>17 Q. Is that your handwriting?</p> <p>18 A. Yes.</p> <p>19 Q. And if you go to the last page of this</p> <p>20 application, does it have your name and date?</p> <p>21 A. Yes.</p> <p>22 Q. What's the date?</p> <p>23 A. 9-25-09.</p> <p>24 Q. And is that your signature there?</p> <p>25 A. Yes, it is.</p>	<p>1 Q. Okay.</p> <p>2 So you believe you went to Swift's office in</p> <p>3 San Antonio and handed them this document.</p> <p>4 A. Yes.</p> <p>5 I filled it out there.</p> <p>6 Q. Oh, you filled it out at the office.</p> <p>7 A. Yes.</p> <p>8 Q. Yes, ma'am?</p> <p>9 A. Yes.</p> <p>10 Q. The top left corner there's something, it mentions</p> <p>11 a Bill Cody.</p> <p>12 Do you know who that is?</p> <p>13 A. That's the district manager of Swift</p> <p>14 Transportation in Phoenix.</p> <p>15 Q. In Phoenix.</p> <p>16 Now, were you living in San Antonio at the time</p> <p>17 you filled this out?</p> <p>18 A. Yes.</p> <p>19 Q. And that's why you think you physically walked it</p> <p>20 into the San Antonio office.</p> <p>21 A. I believe so.</p> <p>22 Q. Do you recall who you gave it to?</p> <p>23 A. I have no idea. I believe her name was Virginia.</p> <p>24 I'm not for sure.</p> <p>25 Q. Was it just somebody at the counter or somebody at</p>

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<p>1 So my question to you is: After you submitted 2 this application, do you have any basis for believing that 3 Swift acted on your application? 4 A. No, I don't. Except that they was going to put me 5 back through school. And why would you put somebody back 6 through school, spend another \$5,000 and me pay it back when 7 I already got my CDLs. That don't make any sense. 8 Q. That's what she told you before you -- 9 A. Yes. 10 Q. -- turned your application in. 11 A. No. That's what she told me after I turned my 12 application in, that she would -- you know, I would be 13 hired, I would go back through the training and back to the 14 schooling, Swift training, Swift schooling. 15 Q. If you were offered a job. 16 A. No, that's what I would -- that's what she told me 17 I would do. 18 Q. No. Did she offer you a job before you left? Did 19 she hire you? 20 A. She, she -- 21 Q. Did she hire you? 22 A. Will you let me answer? 23 Q. Yeah. Did she hire you? Yes or no. 24 A. She hired me to go back to school. 25 Q. Where is -- what paperwork do you have showing you</p>	<p>1 she did. 2 Q. If you got hired. 3 A. No. It was after I had went to school. You have 4 to go back through Swift training school. Okay? 5 Q. And you never spoke to this woman again. 6 A. No. 7 I mean, why should I spend another \$5,000 to, just 8 like I said before, why should I spent \$5,000 and be hired 9 with Swift and then pay back \$5,000 that I've already got my 10 CDLs? Why don't you just put me with a trainer? 11 I was willing to go with a trainer. And she was 12 willing to put me with a trainer. 13 Q. Why didn't that happen? 14 A. I don't know. 15 Q. You have no reason -- no idea why that didn't 16 happen. 17 A. No, I don't. 18 Q. Do you know whether Swift ran a -- 19 A. I don't know. 20 Q. Let me answer -- let me ask. 21 Do you know whether Swift ran a background search 22 after you submitted this Exhibit 24? 23 Do you know? 24 A. No. 25 Q. If I told you that Swift didn't run a background</p>
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<p>1 were hired? 2 A. I don't have any paperwork. 3 Q. You never talked to her ever again. 4 A. No, I didn't. 5 Q. Then you're saying she hired you, you didn't get 6 any paperwork, and you never spoke to her again. 7 A. I didn't go back through the school. 8 Q. No. You're claiming she hired you on the spot. 9 MR. O'TOOLE: Brian, she didn't say that. 10 She didn't say she hired her. 11 MR. FOSTER: Well, she said -- okay. 12 MR. O'TOOLE: I apologize. I'll just object. 13 BY MR. FOSTER: 14 Q. You're saying that right there on the spot when 15 you turned your application in she said I'm going to give 16 you \$5,000 and I'm going to pay for you to go back to 17 school. 18 A. No. She didn't say that. 19 She said she would put me back through training. 20 And I had just come out of school. Why should I 21 spend \$5,000 again to go back through school when I just had 22 my CDLs and then go with a trainer for them? 23 Q. Okay. Did she offer you anything? 24 A. She offered me the -- to go back through school 25 and to be put with a trainer for four to six weeks. Yes,</p>	<p>1 search after you submitted this application, would you have 2 any reason to dispute that? 3 A. No. 4 MR. O'TOOLE: I need a break when it's convenient. 5 BY MR. FOSTER: 6 Q. If I told you that Swift didn't act on your 7 application because it was incomplete, because you left that 8 section blank, would you have any reason to dispute that? 9 MR. O'TOOLE: Objection. 10 THE WITNESS: I don't -- I don't believe they -- I 11 don't believe they acted on it. 12 I mean, if I left it blank, why didn't they hand 13 me back the application to fill in? 14 BY MR. FOSTER: 15 Q. My -- 16 A. Common sense question. 17 Q. So your answer is just common sense, but you don't 18 have any, any basis for believing that Swift didn't 19 disregard your application because it was incomplete. 20 A. No. 21 Q. You don't know one way or the other. 22 A. No. I don't believe I -- I don't believe they 23 did. 24 Q. But you don't know. That's your belief. 25 A. No, I don't know.</p>

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<p>1 Q. And you didn't think it was important to list your 2 most recent employers? 3 A. No. 4 Q. Why? 5 A. I just didn't. 6 Q. So you thought it was important to list your jobs 7 from 20 years earlier, but not your jobs from one or two 8 years earlier; is that right? 9 A. Yes. 10 Q. Does that make any sense? 11 A. Not really. 12 Q. Do you think your employer would be more 13 interested in your most recent jobs or your jobs from 14 20 years ago? 15 A. Probably from 20 years ago. 16 Q. And, again, there's the section of this 17 application on the last page where it says that: I 18 understand that if I -- I understand and agree that any 19 misrepresented, inaccurate, misleading, incomplete or 20 omitted information provided by me in this application will 21 be sufficient cause for cancellation of this application. 22 Do you see that? 23 A. I see it. 24 Like I said, I didn't read it. 25 Q. Whether you read it or not, that's what it says;</p>	<p>1 A. Right. 2 Q. And she talked to you about Swift's truck driving 3 school; right? 4 Yes? 5 A. Yes. 6 Q. And you weren't interested in that; right? 7 A. No. I just got -- I had just gotten my CDL. 8 Q. No, you were not interested in Swift's truck 9 driving school. 10 A. Yes, I told them that I would go back to school. 11 Q. And you would pay for it. 12 A. Well, it would come out of my check. 13 That's the way they work down there. 14 You go to work, you're on the truck training with 15 a trainer, and then it comes out of your, your paycheck. 16 Q. Okay. I'm going to show you what has been marked 17 as Exhibit 1 to your deposition. And I'd like you to keep 18 Exhibit 24 in front of you there too. 19 Those are -- Exhibit 1 is a September 29, 2009, 20 application for employment that you filled out with Swift 21 Transportation; correct? 22 A. Yes. 23 Q. Is that your handwriting on Exhibit 1? 24 A. Yes. 25 Q. You filled that in yourself.</p>
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<p>1 right? 2 A. Yes, that's what it says, but I still didn't read 3 it. 4 Q. Okay. 5 Do you think that you should be excused from a 6 document because you didn't read it? 7 A. No. 8 Q. Do you know who Bill Cody is? 9 A. It's the head man over Swift Transportation. 10 Q. Okay. 11 You never talked to him. 12 A. I don't, I don't know whether I did or not. 13 I talked to -- I've talked to so many people with 14 Swift. Okay? 15 Q. So far you've talked about Virginia. 16 With this application -- 17 A. Okay. 18 Q. -- you talked to Virginia; right? 19 A. Okay. I might have talked to Bill Cody. 20 Q. You don't remember. 21 A. No, I don't. 22 Q. Well, with this application, you went there, you 23 filled it out, you turned it in, and after you turned it in 24 you talked with a woman, Virginia, who was working there. 25 right?</p>	<p>1 A. Yes. 2 Q. And you signed it and dated it on the last page. 3 A. Yes. 4 Q. So this one was submitted on what date? 5 A. The 29th, September 29th. 6 Q. Of 2009? 7 A. '9. 8 Q. And the one we just looked at, Exhibit 24, was 9 submitted four days earlier on September 25, 2009 -- 10 A. Right. 11 Q. -- right? 12 A. Right. 13 Q. Where did you fill this one out? 14 A. This one? 15 Q. Exhibit 1. 16 A. Columbus, Ohio. 17 Q. In Ohio. 18 A. Yes. 19 Q. Okay. And where did you turn it in at? 20 A. Columbus, Ohio. 21 Q. The terminal at Columbus, Ohio. 22 A. Yes. Yes. 23 Q. So Exhibit 1 you turned in in Columbus, Ohio; 24 correct? 25 A. Yes.</p>

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<p>1 application, you attempted to contact Ms. Kepler, and you 2 never heard back from her. 3 A. No, I didn't. 4 Q. Do you have any reason to believe -- well, strike 5 that. 6 Do you have any reason to believe that Swift ran a 7 background check, a criminal background check on you after 8 you submitted your September 29 application? 9 A. No. 10 Q. You don't know one way or the other. 11 A. No, because it doesn't say on here doing a 12 complete background check. 13 Q. Okay. So -- 14 A. Aren't you supposed to have that other sheet of 15 paper that says you going to do a Usis or database or some 16 type of application stating they're going to do a background 17 check? 18 Q. I'm not sure I understand you. 19 But my question to you was: You don't have any 20 reason to believe that Swift ran a background check on you 21 after you submitted Exhibit I -- 22 A. I believe they run where I was driving, and my, 23 and my driving history, my work history. Okay? 24 Q. How do you know that? 25 A. Well, I just figured they did.</p>	<p>1 A. My brother's girlfriend was sitting there with me 2 when all this took place. 3 Q. Do you know who, who makes hiring decisions at 4 Swift? 5 A. I have no idea. 6 Q. Do you know if Swift has a separate recruiting and 7 hiring department? 8 A. I don't know. 9 Like I said, you know, she was a recruiter. I 10 talked to her. And this is what she told me. So. . . 11 Q. But you don't know if she actually had authority 12 to hire anybody, do you? 13 MR. O'TOOLE: She already answered that question, 14 Brian. How many times do we have to do this? 15 MR. FOSTER: I don't think she has answered it. 16 MR. O'TOOLE: Come on. 17 THE WITNESS: I did answer it. What do you want 18 me to do? 19 BY MR. FOSTER: 20 Q. What did you say? 21 A. What I did say? You, you tell me what I said. 22 MR. O'TOOLE: Please answer the question. 23 THE WITNESS: I went in there and I spoke to her, 24 I filled out my application, and I went back in there, and 25 spoke to her. And my brother's girlfriend was with me. And</p>
Page 174	Page 176
<p>1 I mean, she sits there and hires me in as an 2 eight-year experienced driver. Okay? And then I don't hear 3 back from her. Come on. 4 Q. Maybe that's because you weren't hired. 5 A. No, it's because she did hire me sitting there at 6 the table. 7 Q. Back to my question. 8 Do you have any reason to believe that Swift ran 9 any type of a background check on you? 10 A. I don't know. 11 Q. Criminal or otherwise. 12 A. I don't know. 13 Q. And that's the same for your September 25, 2009, 14 application and your September 29, 2009, application. 15 You just don't know; correct? 16 A. I don't know if they run a background check or 17 not, but. . . 18 Q. Do you know whether this Kris Kepler had authority 19 to hire people at Swift? 20 A. I -- yes, I do believe she did. 21 Q. How do you know that? 22 A. Well, because I spoke to her. 23 Why would she sit there and lie? 24 Q. So that's, that's the only basis for your 25 believing that --</p>	<p>1 she hired me in. She told me she would put me in as an 2 eight-year experienced driver, put me with a trainer for 3 four to six weeks and go from there. 4 BY MR. FOSTER: 5 Q. My question was: Did you know whether she had 6 authority to hire you? 7 A. No, I don't know whether she had authority, but I 8 figure that if someone tells you they're going to hire you, 9 you know, that gives -- does that not give her authority to 10 hire me? 11 Q. No, it doesn't. 12 A. Then she lied. 13 MR. O'TOOLE: Here we go again. Stop. Please. 14 It's getting totally out of hand, totally uncalled for, and 15 you're unprofessional. You're arguing with the witness, 16 Brian. 17 MR. FOSTER: I disagree with your 18 characterization. 19 MR. O'TOOLE: I understand. 20 BY MR. FOSTER: 21 Q. Now, did you review the complaint, the lawsuit 22 that was filed in this case? 23 A. Did I review it? 24 Q. Yes. 25 This big first amended complaint, or first amended</p>

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Tanna Hodges

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<p>1 class action complaint for jury, did you see that?</p> <p>2 A. I probably did.</p> <p>3 Q. Okay.</p> <p>4 In paragraph 16 of this first amended class action</p> <p>5 complaint for jury, it states that on September 25, 2009,</p> <p>6 Hodges applied in person for a commercial truck driver</p> <p>7 position with Swift, a copy of Hodges' application is</p> <p>8 attached as Exhibit A.</p> <p>9 Are you aware that the complaint filed in this</p> <p>10 case only refers to your first application, the</p> <p>11 September 25, 2009 --</p> <p>12 A. No, I didn't.</p> <p>13 Q. -- application?</p> <p>14 A. No, I didn't.</p> <p>15 Q. Do you know why that happened or why --</p> <p>16 A. No, I don't.</p> <p>17 Q. -- that's the case?</p> <p>18 So you -- your testimony is that you submitted</p> <p>19 both of these applications, Exhibit 1 and 24.</p> <p>20 A. Yes.</p> <p>21 Q. And after you submitted both of these</p> <p>22 applications, you never heard back from anybody at Swift.</p> <p>23 A. No.</p> <p>24 Q. Correct?</p> <p>25 A. No.</p>	<p>1 MR. FOSTER: And I don't appreciate the speaking</p> <p>2 objection either, Dennis. I've given you some latitude --</p> <p>3 MR. O'TOOLE: I apologize for that. Just -- I</p> <p>4 apologize for that. It was uncalled for.</p> <p>5 BY MR. FOSTER:</p> <p>6 Q. Do you know whether the Fair Credit Reporting Act</p> <p>7 would apply if Swift denied your --</p> <p>8 A. No.</p> <p>9 Q. -- if Swift denied your employment application --</p> <p>10 A. No.</p> <p>11 Q. -- without running a background check?</p> <p>12 A. No, no.</p> <p>13 Q. You don't know what?</p> <p>14 A. I don't know why they would do a credit report on</p> <p>15 me anyway?</p> <p>16 What's that got to do with driving truck?</p> <p>17 Nothing.</p> <p>18 Q. Criminal background check?</p> <p>19 A. No, your -- you said credit.</p> <p>20 You didn't say anything about criminal. You said</p> <p>21 credit.</p> <p>22 Q. So you submitted two applications, and as far as</p> <p>23 you know Swift never ran a criminal background check on</p> <p>24 either one.</p> <p>25 A. I don't know.</p>
Page 178	Page 180
<p>1 Q. It's correct you didn't hear back?</p> <p>2 A. No, I didn't.</p> <p>3 Q. No, you didn't hear back?</p> <p>4 A. No, I didn't hear back.</p> <p>5 Q. Do you have any facts that suggest that Swift</p> <p>6 ordered a criminal background report --</p> <p>7 A. No.</p> <p>8 Q. -- from HireRight?</p> <p>9 A. No, I don't.</p> <p>10 Q. Or from anybody?</p> <p>11 A. No.</p> <p>12 Q. Do you know whether the Fair Credit Reporting Act</p> <p>13 applies if Swift denies your employment without obtaining a</p> <p>14 criminal background report?</p> <p>15 MR. O'TOOLE: Seriously?</p> <p>16 MR. FOSTER: Oh, no --</p> <p>17 MR. O'TOOLE: Objection. Objection. How would</p> <p>18 she -- objection.</p> <p>19 BY MR. FOSTER:</p> <p>20 Q. Let me ask you a question.</p> <p>21 Do you know whether --</p> <p>22 A. What's my credit got to do with driving truck?</p> <p>23 Q. Okay. I appreciate that, but try to answer my</p> <p>24 question.</p> <p>25 A. I did.</p>	<p>1 They never got back with me, so I don't know.</p> <p>2 Q. Were these the only two times you applied?</p> <p>3 A. No, I believe I filed online. And don't ask me</p> <p>4 the date because I don't know.</p> <p>5 Q. Are you at all familiar with Swift's recruiting</p> <p>6 policies or procedures?</p> <p>7 A. I know they put you with a trainer for four to six</p> <p>8 weeks.</p> <p>9 Q. Anything other than that?</p> <p>10 A. No.</p> <p>11 Q. Do you know what the term prequalifying means?</p> <p>12 A. Well, yes.</p> <p>13 Q. What did you think that meant?</p> <p>14 A. That I was qualified to drive truck.</p> <p>15 Q. Do you know when during the application process</p> <p>16 Swift orders criminal background reports?</p> <p>17 A. I figured within the next two or three days.</p> <p>18 Q. What's the basis for that?</p> <p>19 A. To check your driving history, your work related</p> <p>20 jobs.</p> <p>21 Q. No, what's the basis for you believing that?</p> <p>22 What's the basis for you believing that they'd run it within</p> <p>23 two or three days?</p> <p>24 A. I just figured they would.</p> <p>25 Q. Other than you figuring that --</p>

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Tanna Hodges

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<p>1 A. I mean, how long is it going to take? Six months?</p> <p>2 Q. Other than you figuring that they would run it,</p> <p>3 did anybody ever tell you they would?</p> <p>4 A. No.</p> <p>5 Q. Did you ever speak with anybody with Swift</p> <p>6 security or investigation department?</p> <p>7 A. No.</p> <p>8 Q. Nobody ever called you up and talked to you about</p> <p>9 your criminal history or background.</p> <p>10 A. No, no.</p> <p>11 Not that I recall.</p> <p>12 Q. You don't recall speaking with somebody in</p> <p>13 September of 2009 about that.</p> <p>14 A. No.</p> <p>15 Are you referring to Tom Cook?</p> <p>16 Q. No, I'm just asking what you remember.</p> <p>17 A. No.</p> <p>18 Q. Okay. So you think you applied for work at Swift</p> <p>19 at some point after September 25, 2009.</p> <p>20 A. I think so.</p> <p>21 Q. Did you, did you ever take an online test as part</p> <p>22 of your application with Swift?</p> <p>23 A. No.</p> <p>24 Q. Were you ever asked to?</p> <p>25 A. No.</p>	<p>1 Q. Okay. So at the top on Page 1, Ms. Hodges, it's</p> <p>2 got your name, first name, last name, middle initial.</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Does this refresh your memory that you applied</p> <p>6 back on this date?</p> <p>7 A. Yeah.</p> <p>8 Q. Okay.</p> <p>9 And you submitted this, what they call a web</p> <p>10 application or website application.</p> <p>11 A. Okay.</p> <p>12 Q. Right?</p> <p>13 A. Right.</p> <p>14 Q. And did you, did you type in and fill this</p> <p>15 application out, Ms. Hodges?</p> <p>16 A. Most of it.</p> <p>17 Q. Okay. Who else would have typed it in?</p> <p>18 A. I just quit.</p> <p>19 Q. Okay.</p> <p>20 When you say you quit, what do you mean?</p> <p>21 A. I quit on Page 2. I didn't answer the rest of the</p> <p>22 questions.</p> <p>23 Q. Okay. Well, let's, let's finish getting through</p> <p>24 this thing here, Ms. Hodges.</p> <p>25 Did you type it in at home?</p>
Page 182	Page 184
<p>1 Q. Let's, let's take a look at Exhibit 23 to your</p> <p>2 deposition.</p> <p>3 I'll have that marked for you.</p> <p>4 (Deposition Exhibit No. 23 was marked for</p> <p>5 identification by the reporter.)</p> <p>6 BY MR. FOSTER:</p> <p>7 Q. Do you, Ms. Hodges, recognize Exhibit 23 as a</p> <p>8 December 12, 2009, online application that you typed in and</p> <p>9 submitted?</p> <p>10 A. Yes, I typed it in.</p> <p>11 Q. Actually it's dated December 12, 2009. I</p> <p>12 apologize.</p> <p>13 Do you see that on the front page?</p> <p>14 A. Yes.</p> <p>15 Q. At the very top.</p> <p>16 A. Yes.</p> <p>17 Q. Okay.</p> <p>18 So, you applied twice in September, September 25</p> <p>19 and 29; correct?</p> <p>20 A. Okay.</p> <p>21 Q. Is that right?</p> <p>22 A. Yes.</p> <p>23 Q. And then again, Ms. Hodges, on December 12, 2009,</p> <p>24 you applied online; is that right?</p> <p>25 A. Yes.</p>	<p>1 A. I believe so.</p> <p>2 Q. On the computer that you said got stolen.</p> <p>3 A. Yes.</p> <p>4 Q. And you submitted it from there.</p> <p>5 A. Yes.</p> <p>6 Q. Do you know whether you authorized a criminal</p> <p>7 background check in this application?</p> <p>8 A. I don't know whether I did or not.</p> <p>9 Q. Okay. Did you interact with a Swift recruiter</p> <p>10 during this application --</p> <p>11 A. No.</p> <p>12 Q. -- process?</p> <p>13 A. No. I didn't.</p> <p>14 Q. Okay. This was just done online; is that right,</p> <p>15 Ms. Hodges?</p> <p>16 A. Yes, yes.</p> <p>17 Q. Okay.</p> <p>18 Looking at the last page of the application, at</p> <p>19 the top, do you see where it says acknowledgment?</p> <p>20 A. Yes.</p> <p>21 Q. Okay.</p> <p>22 Can you read that first sentence there?</p> <p>23 A. I give Swift Transportation, Inc., the company,</p> <p>24 the right to investigate all references and to secure</p> <p>25 additional information about me if job related.</p>

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## EMPLOYMENT APPLICATION

QUALIFIED APPLICANTS ARE CONSIDERED WITHOUT REGARD TO RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, MARITAL STATUS, VETERAN STATUS OR DISABILITY.  
EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER

How did you hear about our company?

Employee Name \_\_\_\_\_

School \_\_\_\_\_

Name of School \_\_\_\_\_

Walk-in \_\_\_\_\_

Newspaper \_\_\_\_\_

Name of Newspaper \_\_\_\_\_

Other \_\_\_\_\_

Join Swift.com  
800 446 4051  
2200 S. 75th Ave. • Phoenix, AZ 85043

ALL AREAS IN RED  
MUST BE COMPLETED

**Kris Kepler**

**Phone #614-308-2341**

**Fax #888-478-4543**

Date of Application: 9-29-09

Name Hodges TAVNA Lee

Social Security No. 268-58-5729

Present Address 3185 Valley Chapel Rd

Phone (740) 701-2357

Previous Address(es) during last 3 years (FMCSR 391.21(b) (3)) JACKSON OHIO 45640

New Address 337 LRA APT F San Antonio TX 78209

Date of Birth (required by FMCSR 391.21 (b) (2) to verify motor vehicle report) FEB. 18, 1953

In case of emergency notify Shirley Hunter 23 Warren Dr (740) 642-5194

Alternate Emergency Phone 210-907-5020 Name Cary B. us / Daughter

Have you applied for work and/or worked for this company before? ☒ Yes ☐ No When? \_\_\_\_\_

If hired, can you present evidence of your U.S. Citizenship or proof of your legal right to live and work in this country? ☒ Yes ☐ No

Position which applying for: Over the Road Driver

Are you able to perform the essential functions and duties of the job as contained in the job description with or without reasonable accommodation? ☒ Yes ☐ No

How did you find out about Swift? ☐ Newspaper ☒ Truck Driving Publication ☐ Employee Referral ☐ Other Southern States

PLEASE READ CAREFULLY  
Please circle the correct answer to each question listed.

- A. ☐ Yes ☒ No Have you ever been denied a license, permit or privilege to operate a motor vehicle? If yes, explain (49CFR391.21(b)(9)) \_\_\_\_\_
- B. ☐ Yes ☒ No Has any license, permit or privilege suspended or revoked? \_\_\_\_\_
- C. ☐ Yes ☒ No Have you ever been stopped while intoxicated? ☐ Yes ☐ No Were you driving a Commercial Motor Vehicle? \_\_\_\_\_
- D. ☐ Yes ☒ No Have you ever used any illegal drugs (including marijuana)? If yes, when was the last time? \_\_\_\_\_
- E. ☐ Yes ☒ No Have you ever been convicted for possession of, sale, or use of a narcotic drug, amphetamine, or a derivative thereof? \_\_\_\_\_
- F. ☒ Yes ☐ No Have you ever been convicted of a criminal offense? (A conviction will not necessarily disqualify you from employment.) \_\_\_\_\_
- G. ☐ Yes ☒ No Do you currently have any criminal actions pending in which you are a defendant? (A "yes" answer will not necessarily disqualify you from employment.) \_\_\_\_\_
- H. ☐ Yes ☒ No Are you currently on probation or parole status? (A "yes" answer will not necessarily disqualify you from employment.) \_\_\_\_\_
- I. ☐ Yes ☒ No Have you tested positive, or refused to test, on any preemployment drug or alcohol test administered by an employer to which you applied for, but did not obtain, safety, sensitive transportation work covered by DOT agency drug and alcohol testing rules in the last three years? (49 C.F.R. 40.25(J)) \_\_\_\_\_
- Yes to any of the above questions, state circumstances and dates: \_\_\_\_\_

EDUCATION

Circle highest grade completed 1 2 3 4 5 6 7 8 High School 1 2 3 4 College 1 2 3 4 Graduate School 1 2 3 170

List other specialty training or schools MTA TRUCK DRIVING School / out of Business Southern States Community College / 200 Robert Drive, Hillsboro, Ohio

MILITARY STATUS

Have you served in the U.S. Armed Forces? ☒ Yes ☐ No Branch \_\_\_\_\_ Dates: From \_\_\_\_\_ To \_\_\_\_\_

Duties \_\_\_\_\_

HODGES RFP - 000006

EXHIBIT# 1

WITNESS Hodges



DRIVING EXPERIENCE

CLASS OF EQUIPMENT	TYPE OF EQUIPMENT (VAN/TANK-FLAT-ETC.)	FROM	DATES	TO	APPROX. NO. OF MILES TOTAL
TRUCK	Peterbilt 1985	8-10-83	8-15-89		m. 11.02
TRACTOR AND IMPLEMENTS					

LICENSE LIST ALL DRIVERS LICENSES HELD IN PAST FIVE YEARS (NOTE: A COPY of your valid Drivers License or CDL must be attached for your application to be considered.)

STATE	LICENSE NUMBER	TYPE	ENDORSEMENTS	ISSUE DATE	EXPIRATION DATE
NC	9966185	OP		1999	2008
OH	PA 412037	CLASS A	TANK; HAS	8-17-09	12-10-11

MOVING TRAFFIC CONVICTIONS LIST FOR PAST FIVE (5) YEARS, IF NONE WRITE NONE

STATE	DATE	LOCATION (STATE)	CHARGE	PENALTY
VA	8-25-05	Virginia Beach	Radar Det. Jam	Warning
NC	3-7-05	Lenoir NC	Speeding	Went to Driving Class
NC	3-20-05	"	NO IN.	Dis missed

ACCIDENT RECORD IF NONE WRITE NONE

LIST ALL INVOLVEMENT WITH TRUCK AND CAR INCLUDING PROPERTY DAMAGE FOR PAST FIVE YEARS INCLUDING PREVENTABLE AND NON-PREVENTABLE

DATE	TYPE	NATURE OF ACCIDENT (HEAD ON REAR END UPSIDE DOWN ETC.)	INDICATE PREVENTABLE OR NON-PREVENTABLE	FATALITIES	INJURIES	AMOUNT OF PROPERTY DAMAGE
6-12-85	Peterbilt	Upset	Non-Preventable	NONE	minor	Totalled out every thing.

STATES IN WHICH YOU HAVE OPERATED A CLASS A MOTOR VEHICLE IN THE PAST FIVE YEARS

LIST ALL STATES

None

REFERENCES (Please list 2 people able to verify your employment and personal history. Such as: former employer, neighbor, customer or an upstanding citizen of your community. Do not list relatives.)

1. Name	Joe Cable	Relationship	Friend
Address	2300 ZACKS FORK RD Lenoir NC 28645	Phone #	828-758-2949
2. Name	William Robinson	Relationship	Friend
Address	93 KIRKLAND RD Wellston Ohio	Phone #	740-4185137 / 740-5845786

ACKNOWLEDGEMENT

I give Swift Transportation, Inc. (the Company) the right to investigate all references and to secure additional information about me. If job-related. I release from liability the Company and its representatives for seeking such information and all other persons, corporations or organizations for furnishing such information. A copy of this page serves as my authorization for release of this information. I agree to sign all documents and consent forms which the Company deems necessary to verify the facts provided in this application. I give my consent and release from liability the Company and its representatives, that will respond to any inquiries made about me as part of a reference check by any subsequent or potential employer.

From time to time the company may find it necessary to conduct investigations. If it does, employees are expected to truthfully participate and cooperate in such investigations, including submission to searches of property. Failure to do so may subject employees to disciplinary action, which may include termination of employment.

I realize as a condition of employment I will be required to undergo a post offer/pre-employment medical examination and substance abuse screening test at the expense of and as prescribed by the Company, and that any offer of employment is conditioned upon the successful completion of these tests. I agree to furnish such additional information and undergo any other examinations or tests to complete the employment file, or to continue my employment with the Company, if employed. These tests may include, but are not necessarily limited to random, for cause, reasonable suspicion or post accident alcohol and substance abuse screening tests. Further, I release the Company, its agents or employees from any and all claims or actions arising out of such alcohol and substance abuse tests including, but not limited to, the testing procedures, the analysis or the disclosure of test results.

I understand that any offer of employment is contingent upon my ability to produce documentation verifying my identity and legal authorization to be employed, as required by the Immigration Reform & Control Act of 1986 (IRCA).

This application is active for sixty (60) days from the date it is completed, or until the specific position opening for which it was submitted is closed, whichever is earlier. Subsequent to the preceding consideration period, I must submit a new application to be considered for this, or any other position.

I understand and agree that any misrepresented, inaccurate, misleading, incomplete or omitted information provided by me in this application will be sufficient cause for cancellation of this application and/or separation from the Company's service if employed. Further, I understand that just as I am free to resign at any time, for any reason, with or without prior notice, the Company reserves the right to terminate my employment at any time, for any reason, with or without prior notice. I understand that no representative of the Company has the authority to make any verbal or written assurances to the contrary. I recognize the employment relationship to be an at-will relationship and not for a specific period of time. This application represents the complete and final expression of the intent of the parties and may not be modified except by a written duty executed by the undersigned and the President of the Company.

I hereby agree to submit to binding arbitration all disputes and claims arising out of the submission of this or formal application. I further agree, in the event that I am offered employment by the company, as a condition to that employment, all disputes that cannot be resolved by informal internal resolution which might arise out of my employment with the company, whether during or after that employment, will be submitted to binding arbitration in lieu of any Federal or State investigative, administrative or legal proceeding. I agree that such arbitration shall be conducted under the rules of the American Arbitration Association. This application contains the entire agreement between the parties with regard to dispute resolution, and there are no other agreements as to dispute resolution, either oral or written.

I have read carefully the above information, understand and accept the contents thereof. This certifies that this application was completed by me, and that all entries on it and the information provided in it are true and complete to the best of my knowledge.

Tamara LaHoff

Date

9-29-09

HODGES RFP - 000007



# Driver Recruiting Process - Online Application

All information in RED letters is required

Application Date: 12/12/2009

Do you know the name of your recruiter?

I don't know

Job(s) applying for:  
(Ctrl-Click to select more than one job)

AAA (I need to attend school)

Experience level:

Has Class A CDL but needs training

## Personal Information

First Name Tanna Last Name Hodges  
Middle Initial L  
Birthdate (MM/DD/YYYY)  
Social Security #  
Comment I HAVE GOT MY CDLS

## Driver's License & CDL Information

No. PA412037 State Ohio Expires 02/18/2011 (MM/DD/YYYY)  
CDL Holder? Yes  
CDL Endorsements ☒ HAZMAT ☐ Doubles ☐ Triples ☒ Tankers

## Contact Info

### Current Address

Street Address 337 TRA APT.F  
City SAN ANTONIO State Texas Zip 78209  
County BEXAR  
How long at this address? 1 MONTH

Street Address 3185 VALLEY CHAPLE RD.  
City JACKSON State Ohio Zip 45540  
County JACKSON  
How long at this address? 4 YRS

Street Address 1473 RED MARTIN PL.  
City LENOIR State North Carolina Zip 28545  
County CALDWELL  
How long at this address? 12 YRS

Street Address  
City  
County  
How long at this address?

## Contact Information

Home Phone 746/761/2357 Fax  
Cellular 2nd Phone

Email Address TENN.DRIFTER71@YAH

May we request information on you from outside consumer reporting agencies?

Yes No

Comments

Continue

EXHIBIT# 23  
WITNESS Hodges

REDACTED

STC212825

# Driver Recruiting Process - Online Application

All information in RED fields is required

Application Data: 12/12/2009

Do you know the name of your recruiter? ☐ I don't know

Job(s) Applying for:  
(Ctrl-Click to select more than one job)

AAA I need to attend school

Experience level:

Has Class A CDL but needs training

## Personal Information

First Name Tanna Last Name Hodges

Middle Initial L

Birthdate

(MM/DD/YYYY)

Social Security #

Comment

I HAVE GOT MY CDLS

## Driver's License Information

No. PA412037

State Ohio

Expires 02/18/2011

(MM/DD/YYYY)

CDL Holder?

Yes

CDL Endorsements

☒ HAZMAT ☐ Doubles ☐ Triples ☒ Tankers

## Pre-Hire Questionnaire

Have you ever applied for work and/or worked for this company before?

☒ Yes ☐ No

If yes, when? 09/29/2009

If hired, can you present evidence of your U.S. Citizenship or proof of your legal right to live and work in this country?

☒ Yes ☐ No

Are you able to perform the essential functions and duties of the job as contained in the job description with reasonable accommodations?

☒ Yes ☐ No

Have you ever been denied a license, permit or privilege to operate a motor vehicle?

☐ Yes ☒ No

If yes, then when and why?

Has any license, permit or privilege ever been suspended or revoked?

☐ Yes ☒ No

If yes, then when and why?

Have you ever been stopped while intoxicated?

☐ Yes ☒ No

If yes, then when?

Have you ever used any illegal drug (including marijuana)? If yes, when was the last time?

☐ Yes ☒ No

If yes, then when?

Have you ever been convicted for possession, sale, or use of a narcotic drug, amphetamines or a derivative thereof?

☐ Yes ☒ No

Comments:

Have you ever been convicted of a criminal offense? In California, 'crime' shall exclude convictions for marijuana-related offenses that are more than two years old, as defined in California Health and Safety Code sections 11367 (b) and (c) and 11360 (d), or in California Health and Safety Code sections 11364, 11365, or 11359 of the Health and Safety Code as they related to marijuana prior to January 1, 1976, or the statutory predecessors.

☐ Yes ☒ No

Comments:

Do you currently have any criminal actions pending in which you are a defendant?

☐ Yes ☒ No

If yes, explain:

Are you currently on probation or parole?

☐ Yes ☒ No

If yes, explain:

Print Name

# Driver Recruiting Process - Online Application

All information in **RED** letters is required

Application Date: 12/12/2009

Do you know the name of your recruiter? I don't know

Job(s) applying for:  
(Ctrl-Click to select more than one job)

AAA I need to attend school

Experience level:

Has Class A CDL but needs training

## Personal Information

First Name Tanna Last Name Hodges

Middle Initial L

Birthdate

(MM/DD/YYYY)

Social Security #

Comment

I HAVE GOT MY CDLS

## Driver's License & CDL Information

No. PA412037

State Ohio

Expires 02/18/2011

(MM/DD/YYYY)

CDL Holder?

Yes

CDL Endorsements

☒ HAZMAT ☐ Doubles ☐ Triples ☒ Tankers

## Driver Information

Please complete the driving experience information below:

Have you had licenses in other states in the last 5 years?

Yes

State	License Type	License Number
<span style="border: 1px solid black; padding: 0 20px;">North Carolina</span>	<span style="border: 1px solid black; padding: 0 20px;">OP.</span>	<span style="border: 1px solid black; padding: 0 20px;">9966185</span>
<span style="border: 1px solid black; padding: 0 20px;">Ohio</span>	<span style="border: 1px solid black; padding: 0 20px;">CDL</span>	<span style="border: 1px solid black; padding: 0 20px;">PA412037</span>
<span style="border: 1px solid black; padding: 0 20px;">Arkansas</span>	<span style="border: 1px solid black; padding: 0 20px;">CDL</span>	<span style="border: 1px solid black; padding: 0 20px;">N/A</span>

List all states in which you have operated a Class A motor vehicle in the past 5 years:

NONE JUST GOT OUT OF SCHOOL

CLASS OF EQUIPMENT	TYPE OF EQUIPMENT: Van, Truck, Flat, etc.	FROM: (MM/DD/YYYY)	TO: (MM/DD/YYYY)	APPROX. NO. OF MILES TOTAL
STRAIGHT TRUCK				<span style="border: 1px solid black; padding: 0 20px;">0</span>
TRACTOR AND SEMI TRAILER	<span style="border: 1px solid black; padding: 0 20px;">VAN</span>	<span style="border: 1px solid black; padding: 0 20px;">03/30/84</span>	<span style="border: 1px solid black; padding: 0 20px;">06/15/09</span>	<span style="border: 1px solid black; padding: 0 20px;">0</span>
TRACTOR AND TWO TRAILERS				<span style="border: 1px solid black; padding: 0 20px;">0</span>
OTHER				<span style="border: 1px solid black; padding: 0 20px;">0</span>

How many moving violations have you had in the last 5 years?

0

DATE (MM/DD/YYYY)	LOCATION (STATE)	CHARGE	PENALTY
<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>
<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>
<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>

How many accidents have you had in the last 5 years?

1

DATE (MM/DD/YYYY)	TYPE VEHICLE	NATURE OF ACCIDENT (HEAD-ON, REAR END, UPSIDE, ETC.)	INDICATE PREVENTABLE OR NON-PREVENTABLE	FATALITIES	INJURIES	AMOUNT OF PROPERTY DAMAGE
<span style="border: 1px solid black; padding: 0 20px;">12 15 2008</span>	<span style="border: 1px solid black; padding: 0 20px;">FORD CAR</span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;">NO</span>	<span style="border: 1px solid black; padding: 0 20px;">NO</span>	<span style="border: 1px solid black; padding: 0 20px;">TURN SINGLE LITE BRO</span>
<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>
<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>	<span style="border: 1px solid black; padding: 0 20px;"></span>

Continued

# Driver Recruiting Process - Online Application

All information in RED letters is required

Application Date: 12/12/2009

Do you know the name of your recruiter? I don't know

Job(s) applying for:  
(Ctrl-Click to select more than one job)

AAA I need to attend school

Experience level:

Has Class A CDL but needs training

## Personal Information

First Name Tanna Last Name Hodges

Middle Initial L

Birthdate

(MM/DD/YYYY)

Social Security:

Comment

I HAVE GOT MY CDLS

## Driver's License & CD Information

No. PA412037

State Ohio

Expires 02/16/2011

(MM/DD/YYYY)

CDL Holder?

Yes

CDL Endorsements

☒ HAZMAT ☐ Doubles ☐ Triples ☒ Tankers

## Work History

5 years of work history are required. 10 years of work history are required if any commercial driving experience was during that time period.

## Work History

Company Name:

76 TRUCK STOP

From: 07/15/1991  
(MM/DD/YYYY)

To: 09/15/1993  
(MM/DD/YYYY)

May we contact this employer?  
☐ Yes ☐ No

Street Address:

1/40 GALLAWAY /NAVINTINE RD.

City:

LITTLE ROCK AR.

Phone:

1800/872/7012

Position:

WAITRESS

Reason for leaving:

MOVED TO N.C.

State:

Zip 76209

Supervisor's Name:

Type of Equip. Driven:

Company Name:

WILLIOWGEY

From: 10/25/1988  
(MM/DD/YYYY)

To: 03/10/1989  
(MM/DD/YYYY)

May we contact this employer?  
☐ Yes ☐ No

Street Address:

SEYMORE IN.

City:

OUT OF BUSINESS

Phone:

Position:

Reason for leaving:

State:

Zip 76209

Supervisor's Name:

Type of Equip. Driven:

Company Name:

MID WEST CONT

From: 03/01/1984  
(MM/DD/YYYY)

To: 8/15/1985  
(MM/DD/YYYY)

May we contact this employer?  
☐ Yes ☐ No

Street Address:

333941 FREELON DR.

City:

STIOUX CITY IOWA

Phone:

1712/239/1613

Position:

O.T ROAD

Reason for leaving:

CAME OFF THE ROAD TO RAISE KIDS

State: Iowa

Zip 76209

Supervisor's Name: CHAR MORRNEY

Type of Equip. Driven: PETERBILT 1985

Company Name:

From: (MM/DD/YYYY)

To: (MM/DD/YYYY)

May we contact this employer?  
☐ Yes ☐ No

Street Address:

City:

Phone:

Position:

Reason for leaving:

State:

Zip 76209

Supervisor's Name:

Type of Equip. Driven:

Company Name:

From: (MM/DD/YYYY)

To: (MM/DD/YYYY)

May we contact this employer?  
☐ Yes ☐ No

Street Address:

City:

Phone:

Position:

Reason for leaving:

State:

Zip 76209

Supervisor's Name:

Type of Equip. Driven:

☒ Commercial

Comment (MM/DD/YYYY)  
I HAVE GOT MY CDL'S

**Driver's License & CDL Information**

No. PA412037 State Ohio Expires 02/18/2011 (MM/DD/YYYY)

CDL Holder? Yes

CDL Endorsements ☒ HAZMAT ☐ Doubles ☐ Triples ☒ Tankers

Education/Military  
Service

What is the highest grade you've completed? 11TH

High School

Name	Graduate?	Degree	Major/Minor
JACKSON	<input type="radio"/> Yes <input checked="" type="radio"/> No		

College

Name	Graduate?	Degree	Major/Minor
	<input type="radio"/> Yes <input type="radio"/> No		

Graduate School

Name	Graduate?	Degree	Major/Minor
SOUTHERN STATES	<input checked="" type="radio"/> Yes <input type="radio"/> No	YES	TRUCK DRIVER

Technical/Trade School/Truck Driving School

Name	Graduate?	Degree	Major/Minor
SOUTHERN STATES	<input checked="" type="radio"/> Yes <input type="radio"/> No	YES	TRUCK DRIVER

Have you served in the U.S. Armed Forces?

☐ Yes ☒ No

Branch	Dates Served From:	Dates Served To:

Continue

REDACTED

STC212628





## Driver Recruiting Process - Online Application

All information in **RED** letters is required

Application Date: 12/12/2009

Do you know the name of your recruiter? I don't know

Job(s) applying for:  
(Ctrl-Click to select more  
than one job)

AAA I need to attend school

Experience level: Has Class A CDL but needs training

### Driver Personal Information

First Name Tanna Last Name Hodges  
Middle Initial L  
Birthdate (MM/DD/YYYY)  
Social Security #  
Comment I HAVE GOT MY CDLS

### Driver's License & CDL Information

No. PA412037 State Ohio Expires 02/18/2011 (MM/DD/YYYY)

CDL Holder? Yes

CDL Endorsements ☒ HAZMAT ☐ Doubles ☐ Triples ☒ Tankers

Education/Military  
Service

What is the highest grade you've completed? 11TH

High School

Name	Graduate?	Degree	Major/Minor
JACKSON	<input type="radio"/> Yes <input checked="" type="radio"/> No		

College

Name	Graduate?	Degree	Major/Minor
	<input type="radio"/> Yes <input type="radio"/> No		

Graduate School

Name	Graduate?	Degree	Major/Minor
SOUTHERN STATES	<input checked="" type="radio"/> Yes <input type="radio"/> No	YES	TRUCK DRIVER

Technical/Trade School/Truck Driving School

Name	Graduate?	Degree	Major/Minor
SOUTHERN STATES	<input checked="" type="radio"/> Yes <input type="radio"/> No	YES	TRUCK DRIVER

Have you served in the U.S. Armed Forces?

☐ Yes ☒ No

Branch	Dates Served From:	Dates Served To:

Continue

REDACTED

STC712630

# **Driver Recruiting Process - Online Application**

All information in RLP letters is required

Application Date: 12/12/2009

Do you know the name of your recruiter? ☐ don't know

Job(s) applying for:  
(Click to select more than one job)

AAA I need to attend school

Experience level:

Has Class A CDL but needs training

## **Personal Information**

First Name Tanna Last Name Hodges  
Middle Initial L Social Security #  
Birthdate (MM/DD/YYYY)  
Comment I HAVE GOT MY CDLS

## **CDL Licensing & Info. Information**

No. PA412037 State Ohio Expires 02/18/2011 (MM/DD/YYYY)  
CDL Holder? Yes  
CDL Endorsements ☒ HAZMAT ☐ Doubles ☐ Triples ☐ Tankers

Submit Application

## **ACKNOWLEDGEMENT**

I give Swift Transportation, Inc. (the Company) the right to investigate all references and to secure additional information about me, if job-related. I release from liability the Company and its representatives for seeking such information and all other persons, corporations or organizations for furnishing such information. A copy of this page serves as my authorization to seek/provide this information. I agree to sign all documents and consent forms which the Company deems necessary to verify the facts provided in this application. I give my consent and release from liability the Company and its representative, to respond to any inquiries made about me as part of a reference check by any subsequent or potential employer.

From time to time the Company may find it necessary to conduct investigations. If it does, employees are expected to truthfully participate and cooperate in such investigations, including submission to searches of property. Failure to do so may subject employees to disciplinary action, which may include termination of employment.

I realize as a condition of employment I will be required to undergo a post offer/pre-employment medical examination and substance abuse screening test at the expense of and as prescribed by the Company, and that any offer of employment is conditioned upon the successful completion of these tests. I agree to furnish such additional information and undergo any other examinations or test to complete the employment file, or to continue my employment with the Company, if employed. These tests may include, but are not necessarily limited to random, for cause, reasonable suspicion or post accident alcohol and substance abuse screening tests. Further, I release the Company, its agents or employees from any and all claims or actions arising out of such alcohol and substance abuse tests including, but not limited to, the testing procedures, the analysis or the disclosure of test results.

I understand that any offer of employment is contingent upon my ability to produce documentation verifying my identity and legal authorization to be employed, as required by the Immigration Reform & Control Act of 1986 (IRCA).

This application is active for sixty (60) days from the date it is completed, or until the specific position opening for which it was submitted is closed, whichever is earlier. Subsequent to the preceding considerable period, I must submit a new application to be considered for this, or any other, position.

I understand and agree that any false or misleading, incomplete or omitted information provided by me in this application will be sufficient cause for cancellation of my employment and/or termination from the Company's service if employed. Further, I understand that just as I am free to resign at any time, for any reason, without prior notice, the Company reserves the right to terminate my employment at any time, for any reason, with or without prior notice. I acknowledge that the Company has the authority to make any verbal or written assignments to the contrary. I recognize the employment relationship to be at-will and not for a specific period of time. This application represents the complete and final expression of the intent of the parties and may not be modified except by a writing duly executed by the undersigned and the President of the Company.

I hereby agree to submit to dispute resolution of disputes and claims arising out of the submission of this or formal application. I further agree, in the event that I am wronged or wronged others by the Company, or a condition to that employment, all disputes that cannot be resolved by informal internal resolution which might arise out of my employment with the Company, whether during or after that employment, will be submitted to binding arbitration in lieu of any Federal or State law, regulation, administrative or legal proceedings. I agree that such arbitration shall be conducted under the rules of the American Arbitration Association. This application contains the entire agreement between the parties with regard to dispute resolution, and there are no other agreements as to dispute resolution, either oral or written.

I have read carefully the above information, understand and accept the contents thereof. This certifies that this application was completed by me, and that all entries on it and information in it are true and complete to the best of my knowledge.

**Signature**

## EMPLOYMENT APPLICATION

QUALIFIED APPLICANTS ARE CONSIDERED WITHOUT REGARD TO RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, MARITAL STATUS, VETERAN STATUS OR DISABILITY.  
EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER

Bill Cody

Fax 614-308-2385

Toll Free 800-446-4051 Ext. 2



2200 S. 75th Ave. • Phoenix, AZ 85043

Date of Application: 9-25-09Name Tanna Lee HodgesSocial Security No. 268-58-5727Present Address 3185 Valley ChapelPhone (740) 286-4192

Previous Address(es) during last 3 years (FMCSR 391.21(b) (3))

Date of Birth (required by FMCSR 391.21 (b) (2) to verify motor vehicle report) 2-18-53-In case of emergency notify Cary BiasSAN ANTONIO TX(210) 707-5020Alternate Emergency Phone 740-642-3192Name Shirley HunterADDRESS 23 W. WARDENPHONE KingstonHave you applied for work and/or worked for this company before? ☐ Yes ☒ No When?If hired, can you present evidence of your U.S. Citizenship or proof of your legal right to live and work in this country? ☒ Yes ☐ NoPosition which applying for: OTR DRIVERAre you able to perform the essential functions and duties of the job as contained in the job description with or without reasonable accommodation? ☒ Yes ☐ NoHow did you find out about Swift? ☐ Newspaper ☒ Truck Driving Publication ☐ Employee Referral ☐ Other School

- A. Have you ever been denied a license, permit or privilege to operate a motor vehicle? ☐ Yes ☒ No If yes, explain (49CFR391.21(b)(9))
- B. Has any license, permit or privilege suspended or revoked? ☐ Yes ☒ No
- C. Have you ever been stopped while intoxicated? ☐ Yes ☒ No Were you driving a Commercial Motor Vehicle? ☐ Yes ☐ No
- D. Have you ever used any illegal drugs (including marijuana)? ☐ Yes ☒ No If yes, when was the last time?
- E. Have you ever been convicted for possession of, sale, or use of a narcotic drug, amphetamine, or a derivative thereof? ☐ Yes ☒ No
- F. Have you ever been convicted of a criminal offense? (A conviction will not necessarily disqualify you from employment.) ☒ Yes ☐ No miss,
- G. Do you currently have any criminal actions pending in which you are a defendant? (A "yes" answer will not necessarily disqualify you from employment.) ☐ Yes ☒ No
- H. Are you currently on probation or parole status? (A "yes" answer will not necessarily disqualify you from employment.) ☐ Yes ☒ No
- I. Have you tested positive, or refused to test, on any preemployment drug or alcohol test administered by an employer to which you applied for, but did not obtain, safety, sensitive transportation work covered by DOT agency drug and alcohol testing rules in the last three years? (49 C.F.R. 40.25(J)) ☐ Yes ☒ No
- Yes to any of the above questions, state circumstances and dates:

Circle highest grade completed 1 2 3 4 5 6 7 8 High School 1 2 3 4 College 1 2 3 4 Graduate School 1 2 3

List other specialty training or schools

MTA Driver Training School / Southern States  
Columbus Ohio
Have you served in the U.S. Armed Forces? ☐ Yes ☒ No Branch

Dates: From To

Duties

HODGES RFP - 000001

EXHIBIT# 24WITNESS Hodges



Social Security No. \_\_\_\_\_

All applicants must list all full and part-time employment including military service, self employment, and periods of unemployment during preceding 10 years.  
NOTE: List employers in reverse order starting with the most recent. Use an additional sheet if necessary.

**CURRENT EMPLOYER**

May We Call? Yes \_\_\_\_\_ No \_\_\_\_\_

Mo Day Yr Mo Day Yr

From \_\_\_\_\_ To \_\_\_\_\_

Phone # ( ) \_\_\_\_\_

Supervisor \_\_\_\_\_

Type of Equip. Driven \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_ street \_\_\_\_\_ city \_\_\_\_\_ state \_\_\_\_\_ zip code \_\_\_\_\_

Position Held \_\_\_\_\_

Reason For Leaving \_\_\_\_\_

Gap in Employment From \_\_\_\_\_ To \_\_\_\_\_ Explain \_\_\_\_\_

A. FMCSR 391.21 (b)(10) (iv) (A) Were you subject to the Federal Motor Carrier Safety Regulations (FMCSR's) while employed by this previous employer? ☐ Yes ☐ NoB. FMCSR 391.21 (b)(10) (iv) (B) Was this job designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing required by 49 CFR part 40? ☐ Yes ☐ No**PREVIOUS EMPLOYER**May We Call? Yes ☒ No \_\_\_\_\_

Mo Day Yr Mo Day Yr

From 9-85 To 8-88

Supervisor CHAKType of Equip. Driven PeterName midwest CoytAddress Sioux city Iowa city \_\_\_\_\_ state \_\_\_\_\_ zip code \_\_\_\_\_Position Held OTR Driver

Reason For Leaving \_\_\_\_\_

Gap in Employment From \_\_\_\_\_ To \_\_\_\_\_ Explain \_\_\_\_\_

A. FMCSR 391.21 (b)(10) (iv) (A) Were you subject to the Federal Motor Carrier Safety Regulations (FMCSR's) while employed by this previous employer? ☐ Yes ☐ NoB. FMCSR 391.21 (b)(10) (iv) (B) Was this job designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing required by 49 CFR part 40? ☐ Yes ☐ No**PREVIOUS EMPLOYER**May We Call? Yes ☒ No \_\_\_\_\_

Mo Day Yr Mo Day Yr

From 8-89 To 8-89

Supervisor \_\_\_\_\_

Type of Equip. Driven FreightlinerName B. J. Mc AdamsAddress Little Rock AR city \_\_\_\_\_ state \_\_\_\_\_ zip code \_\_\_\_\_Position Held OTR DriverReason For Leaving went to William By Truck Lines

Gap in Employment From \_\_\_\_\_ To \_\_\_\_\_ Explain \_\_\_\_\_

A. FMCSR 391.21 (b)(10) (iv) (A) Were you subject to the Federal Motor Carrier Safety Regulations (FMCSR's) while employed by this previous employer? ☐ Yes ☐ NoB. FMCSR 391.21 (b)(10) (iv) (B) Was this job designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing required by 49 CFR part 40? ☐ Yes ☐ No**PREVIOUS EMPLOYER**May We Call? Yes ☒ No \_\_\_\_\_

Mo Day Yr Mo Day Yr

From 8-89 To 8-89

Supervisor \_\_\_\_\_

Type of Equip. Driven \_\_\_\_\_

Name William By Truck LinesAddress Seymore Ind. city \_\_\_\_\_ state \_\_\_\_\_ zip code \_\_\_\_\_Position Held OTR DriverReason For Leaving more money

Gap in Employment From \_\_\_\_\_ To \_\_\_\_\_ Explain \_\_\_\_\_

A. FMCSR 391.21 (b)(10) (iv) (A) Were you subject to the Federal Motor Carrier Safety Regulations (FMCSR's) while employed by this previous employer? ☐ Yes ☐ NoB. FMCSR 391.21 (b)(10) (iv) (B) Was this job designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing required by 49 CFR part 40? ☐ Yes ☐ No**PREVIOUS EMPLOYER**May We Call? Yes ☒ No \_\_\_\_\_

Mo Day Yr Mo Day Yr

From 9-91 To 9-93

Supervisor Bill

Type of Equip. Driven \_\_\_\_\_

Name 76 TRUCK STOPAddress Little Rock AR city \_\_\_\_\_ state \_\_\_\_\_ zip code \_\_\_\_\_Position Held waitressReason For Leaving TO RAISE KIDS

Gap in Employment From \_\_\_\_\_ To \_\_\_\_\_ Explain \_\_\_\_\_

A. FMCSR 391.21 (b)(10) (iv) (A) Were you subject to the Federal Motor Carrier Safety Regulations (FMCSR's) while employed by this previous employer? ☐ Yes ☐ NoB. FMCSR 391.21 (b)(10) (iv) (B) Was this job designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing required by 49 CFR part 40? ☐ Yes ☐ No**PREVIOUS EMPLOYER**

May We Call? Yes \_\_\_\_\_ No \_\_\_\_\_

Mo Day Yr Mo Day Yr

From 9-93 To 2009

Supervisor \_\_\_\_\_

Type of Equip. Driven \_\_\_\_\_

Name Raising grade child

Address \_\_\_\_\_ street \_\_\_\_\_ city \_\_\_\_\_ state \_\_\_\_\_ zip code \_\_\_\_\_

Position Held \_\_\_\_\_

Reason For Leaving \_\_\_\_\_

Gap in Employment From \_\_\_\_\_ To \_\_\_\_\_ Explain \_\_\_\_\_

A. FMCSR 391.21 (b)(10) (iv) (A) Were you subject to the Federal Motor Carrier Safety Regulations while employed by this previous employer? ☐ Yes ☐ NoB. FMCSR 391.21 (b)(10) (iv) (B) Was this job designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing required by 49 CFR part 40? ☐ Yes ☐ No

HODGES RFP - 000002

Social Security No.       -            **ADDITIONAL WORK EXPERIENCE****GENERAL EMPLOYER**May We Call? Yes ☐ No ☐

Mo Day Yr

Mo Day Yr

From    To   Phone #   Supervisor   Type of Equip. Driven   Name   Address    street    city    state    zip code   Position Held   Reason For Leaving   Gap in Employment From    To    Explain   

- A. FMCSR 391.21 (b)(10) (iv) (A) Were you subject to the Federal Motor Carrier Safety Regulations (FMCSR's) while employed by this previous employer? ☐ Yes ☐ No
- B. FMCSR 391.21 (b)(10) (iv) (B) Was this job designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing required by 49 CFR part 40? ☐ Yes ☐ No

**GENERAL EMPLOYER**May We Call? Yes ☐ No ☐

Mo Day Yr

Mo Day Yr

From    To   Phone #   Supervisor   Type of Equip. Driven   Name   Address    street    city    state    zip code   Position Held   Reason For Leaving   Gap in Employment From    To    Explain   

- A. FMCSR 391.21 (b)(10) (iv) (A) Were you subject to the Federal Motor Carrier Safety Regulations (FMCSR's) while employed by this previous employer? ☐ Yes ☐ No
- B. FMCSR 391.21 (b)(10) (iv) (B) Was this job designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing required by 49 CFR part 40? ☐ Yes ☐ No

**GENERAL EMPLOYER**May We Call? Yes ☐ No ☐

Mo Day Yr

Mo Day Yr

From    To   Phone #   Supervisor   Type of Equip. Driven   Name   Address    street    city    state    zip code   Position Held   Reason For Leaving   Gap in Employment From    To    Explain   

- A. FMCSR 391.21 (b)(10) (iv) (A) Were you subject to the Federal Motor Carrier Safety Regulations (FMCSR's) while employed by this previous employer? ☐ Yes ☐ No
- B. FMCSR 391.21 (b)(10) (iv) (B) Was this job designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing required by 49 CFR part 40? ☐ Yes ☐ No

**GENERAL EMPLOYER**May We Call? Yes ☐ No ☐

Mo Day Yr

Mo Day Yr

From    To   Phone #   Supervisor   Type of Equip. Driven   Name   Address    street    city    state    zip code   Position Held   Reason For Leaving   Gap in Employment From    To    Explain   

- A. FMCSR 391.21 (b)(10) (iv) (A) Were you subject to the Federal Motor Carrier Safety Regulations (FMCSR's) while employed by this previous employer? ☐ Yes ☐ No
- B. FMCSR 391.21 (b)(10) (iv) (B) Was this job designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing required by 49 CFR part 40? ☐ Yes ☐ No

**GENERAL EMPLOYER**May We Call? Yes ☐ No ☐

Mo Day Yr

Mo Day Yr

From    To   Phone #   Supervisor   Type of Equip. Driven   Name   Address    street    city    state    zip code   Position Held   Reason For Leaving   Gap in Employment From    To    Explain   

- A. FMCSR 391.21 (b)(10) (iv) (A) Were you subject to the Federal Motor Carrier Safety Regulations (FMCSR's) while employed by this previous employer? ☐ Yes ☐ No
- B. FMCSR 391.21 (b)(10) (iv) (B) Was this job designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing required by 49 CFR part 40? ☐ Yes ☐ No

**GENERAL EMPLOYER**May We Call? Yes ☐ No ☐

Mo Day Yr

Mo Day Yr

From    To   Phone #   Supervisor   Type of Equip. Driven   Name   Address    street    city    state    zip code   Position Held   Reason For Leaving   Gap in Employment From    To    Explain   

- A. FMCSR 391.21 (b)(10) (iv) (A) Were you subject to the Federal Motor Carrier Safety Regulations (FMCSR's) while employed by this previous employer? ☐ Yes ☐ No
- B. FMCSR 391.21 (b)(10) (iv) (B) Was this job designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing required by 49 CFR part 40? ☐ Yes ☐ No

HODGES RFP - 000003



Social Security No.       -            

DRIVING EXPERIENCE					
CLASS OF EQUIPMENT	TYPE OF EQUIPMENT VAN-TANK-FLAT-ETC.	FROM	DATES	TO	APPROX. NO. OF MILES TOTAL
STRAIGHT TRUCK	11aw				
TRACTOR AND SEMI-TRAILER	11aw	83		91	1 million
TRACTOR AND TWO TRAILERS					
OTHER					

LICENSE - LIST ALL DRIVERS LICENSES HELD IN PAST FIVE YEARS (NOTE: A COPY OF YOUR VALID DRIVER'S LICENSE OR GDL MUST BE ATTACHED FOR YOUR APPLICATION TO BE CONSIDERED.)				
STATE	LICENSE NUMBER	TYPE	ENDORSEMENTS	EXPIRATION DATE
NE A	9966185	OP.		2008
Ohio	8B402731	CLASS A	TANK.	2011

MOVING TRAFFIC CONVICTIONS - LIST FOR PAST FIVE (5) YEARS. IF NONE WRITE NONE				
STATE	DATE	LOCATION (STATE)	CHARGE	PENALTY
Va.	2004	Ch Beach Hill	Badger Det.	Warning

ACCIDENT RECORD IF NONE WRITE NONE						
LIST ALL INVOLVEMENT WITH TRUCK AND CAR INCLUDING PROPERTY DAMAGE FOR PAST FIVE YEARS, INCLUDING PREVENTABLE AND NON-PREVENTABLE.						
DATE	TYPE OF VEHICLE	NATURE OF ACCIDENT (HEAD-ON, REAR END, UPSET, ETC.)	INDICATE PREVENTABLE OR NON-PREVENTABLE	FATALITIES	INJURIES	AMOUNT OF PROPERTY DAMAGE
1985	Boite	upset TRUCK	NON PREVENTABLE	None		Total.

STATES IN WHICH YOU HAVE OPERATED A CLASS A MOTOR VEHICLE IN THE PAST FIVE YEARS	
LIST ALL STATES	None

REFERENCES (Please list 2 people able to verify your employment and personal history. Such as co-worker, neighbor, customer or an upstanding citizen of your community. Do not list relatives.)	
1. Name <u>Dessie Hill</u>	Relationship <u>Friend</u>
Address <u>3185 Valley Chapel Rd Jackson Ohio</u>	Phone # <u>790-286-4192</u>
2. Name <u>Shirley Hunter</u>	Relationship <u>Good friend</u>
Address <u>93 Warren DR. Kingsport Ohio</u>	Phone # <u>790-642-5192</u>

ACKNOWLEDGEMENT	
-----------------	--

I give Swift Transportation, Inc. (the Company) the right to investigate all references and to secure additional information about me, if job-related. I release from liability the Company and its representatives for seeking such information and all other persons, corporations or organizations for furnishing such information. A copy of this page serves as my authorization for release of this information. I agree to sign all documents and consent forms which the Company deems necessary to verify the facts provided in this application. I give my consent and release from liability the Company and its representatives, that will respond to any inquiry made about me as part of a reference check by any subsequent or potential employer.

From time to time the company may find it necessary to conduct investigations. If it does, employees are expected to truthfully participate and cooperate in such investigations, including submission to searches of property. Failure to do so may subject employees to disciplinary action, which may include termination of employment.

I realize as a condition of employment I will be required to undergo a post offer/pre-employment medical examination and substance abuse screening test at the expense of and as prescribed by the Company, and the any offer of employment is conditioned upon the successful completion of these tests. I agree to furnish such additional information and undergo any other examinations or tests to complete the employment file, or to continue my employment with the Company, if employed. These tests may include, but are not necessarily limited to random, for cause, reasonable suspicion or post accident alcohol and substance abuse screening tests. Further, I release the Company, its agents or employees from any and all claims or actions arising out of such alcohol and substance abuse tests including, but not limited to, the testing procedures, the analysis or the disclosure of test results.

I understand that any offer of employment is contingent upon my ability to produce documentation verifying my identity and legal authorization to be employed, as required by the Immigration Reform & Control Act of 1986 (IRCA).

This application is active for sixty (60) days from the date it is completed, or until the specific position opening for which it was submitted is closed, whichever is earlier. Subsequent to the preceding consideration period, I must submit a new application to be considered for this, or any other position.

I understand and agree that any misrepresented, inaccurate, misleading, incomplete or omitted information provided by me in this application will be sufficient cause for cancellation of this application and/or separate from the Company's service if employed. Further, I understand that just as I am free to resign at any time, for any reason, with or without prior notice, the Company reserves the right to terminate my employment at any time, for any reason, with or without prior notice. I understand that no representative of the Company has the authority to make any verbal or written assurances to the contrary. I recognize the employment relationship to be an at-will relationship and not for a specific period of time. This application represents the complete and final expression of the intent of the parties and may not be modified except by a writing duly executed by the undersigned and the President of the Company.

I hereby agree to submit to binding arbitration all disputes and claims arising out of the submission of this or formal application. I further agree, in the event that I am offered employment by the company, as a condition to that employment, all disputes that cannot be resolved by informal internal resolution which might arise out of my employment with the company, whether during or after that employment, will be submitted to binding arbitration in lieu of any Federal or State injunctive administrative or legal proceeding. I agree that such arbitration shall be conducted under the rules of the American Arbitration Association. This application contains the entire agreement between the parties with regard to dispute resolution, and there are no other agreements as to dispute resolution, either oral or written.

I have read carefully the above information, understand and accept the contents thereof. This certifies that this application was completed by me, and that all entries on it and the information provided in it are true and complete to the best of my knowledge.

Signature [Signature] Date 9-25-09  
HODGES RFP - 000004

Social Security No. 

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**APPLICATION INFORMATION**

To comply with government regulations and reporting requirements, we request that you complete the VOLUNTARY data form. Refusal to provide this information will not subject you to any adverse treatment. All information provided will be held confidential.

I wish to be considered under the Affirmative Action Program as a:

( ) Male

☒ Female

( ) **American Indian or Alaskan Native:** A person having origins in any of the original people of North America, and who maintain cultural identification through tribal affiliation or community recognition.

( ) **Asian:** A person having origins in any of the original people of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

( ) **Black:** A person having origins in any of the black racial groups of Africa, not of Hispanic origin.

( ) **Hispanic:** All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

☒ **White**

Print Name

TANNA Lee Hodges

Date

9-25-09

For Human Resources Department Use Only  
Instructions: Return to Phoenix - Attn: HR Compliance

HODGES RFP - 000005

## **EXHIBIT D**



1 John F. Lomax, Jr. (#020224)  
 Brian J. Foster (#012143)  
 2 Joseph A. Kroeger (#026036)  
 SNELL & WILMER  
 3 One Arizona Center  
 400 E. Van Buren  
 4 Phoenix, AZ 85004-2202  
 Telephone: (602) 382-6000  
 5 Facsimile: (602) 382-6070  
 Email: jlomax@swlaw.com  
 6 bfoster@swlaw.com  
 jkroeger@swlaw.com  
 7 Attorneys for Defendant

8 IN THE UNITED STATES DISTRICT COURT  
 9 FOR THE DISTRICT OF ARIZONA

10 KELVIN D. DANIEL, et al

11 Plaintiffs,

12 v.

13 SWIFT TRANSPORTATION  
 14 CORPORATION,

15 Defendant.

Case No. 2:11-cv-01548-PHX-ROS

**DEFENDANT SWIFT  
 TRANSPORTATION CO. OF  
 ARIZONA, LLC'S INITIAL  
 DISCLOSURE STATEMENT**

Assigned to: Hon. Roslyn O. Silver

17 Pursuant to Fed. R. Civ. Proc. 16(a), Defendant Swift Transportation Co. of  
 18 Arizona, LLC ("Swift"), by and through undersigned counsel, hereby submits its Initial  
 19 Disclosure Statement.

**PRELIMINARY STATEMENT**

21 The content of this Disclosure Statement represents the information currently  
 22 known by Swift and is therefore provisional and subject to supplementation, amendment,  
 23 explanation, change, and amplification. It is not intended to represent all evidence that  
 24 Swift will present at trial; rather, this is merely a preliminary disclosure statement, which  
 25 Swift may supplement as further information is obtained through discovery. The reason  
 26 for the provisional nature of the statement is that the case is in the preliminary stages of  
 27 discovery and Swift is not fully aware of Plaintiffs' allegations and damages at this time.

28 Swift makes the following disclosure subject to and without waiving its right to



1 protect from disclosure: (a) any and all communications protected by the attorney-client  
2 privilege; (b) any and all work product conclusions, opinions, or legal theories of Swift's  
3 attorneys or other representatives concerning this litigation; and (c) any and all  
4 confidential information.

5 Swift further reserves all objections to the introduction of the documents and  
6 testimony of witnesses identified below at any hearing or trial, or in any motion, in this  
7 lawsuit. This Preliminary Statement applies to each and every response provided in this  
8 Initial Disclosure Statement and is incorporated by reference as though fully set forth in  
9 all responses that follow. If any part of this statement is ever read to the Court or jury,  
10 fairness requires that this Preliminary Statement also be read to indicate that, at the time it  
11 was filed, only limited information had been acquired.

12 **I. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION**  
13 **THAT SWIFT MAY USE TO SUPPORT ITS CLAIMS OR DEFENSES**

14 As this litigation is in the early stages of discovery, Swift reserves the right to  
15 supplement this portion of its Disclosure Statement. No one has been deposed by any  
16 party as of the date of this Disclosure Statement. Swift can tentatively identify the  
17 following individuals:

- 18 **1. Kelvin D. Daniel**  
19 **Plaintiff**  
20 **c/o Stumphauzer, O'Toole**

21 Mr. Daniel is expected to testify regarding the allegations contained in the  
22 Complaint, his application process, orientation, his criminal history and disclosure of  
23 same, and Swift's treatment of him consistent with the requirements of the Fair Credit  
24 Reporting Act ("FCRA").

- 25 **2. Tanna Hodges**  
26 **Plaintiff**  
27 **c/o Stumphauzer, O'Toole**

28 Ms. Hodges is expected to testify regarding the allegations contained in the  
Complaint, her application process, her criminal history and disclosure of same, and  
Swift's treatment of her consistent with the requirements of the Fair Credit Reporting Act

1 ("FCRA").

2  
3 **3. Robert R. Bell, Jr.**  
4 **Plaintiff**  
5 **c/o Stumphauzer, O'Toole**

6 Mr. Bell is expected to testify regarding the allegations contained in the Complaint,  
7 his application process, orientation, his criminal history and disclosure of same, and  
8 Swift's treatment of him consistent with the requirements of the Fair Credit Reporting Act  
9 ("FCRA").

10 **4. Shawn Driscoll, Director of Security**  
11 **c/o John F. Lomax, Jr., Snell & Wilmer**  
12 **One Arizona Center**  
13 **400 E. Van Buren**  
14 **Phoenix, AZ 85004-2202**  
15 **(602) 382-6305**

16 Mr. Driscoll is expected to testify regarding Swift's screening of job applicants  
17 with criminal histories, his knowledge of Plaintiffs' application process and the  
18 allegations contained in the First Amended Complaint.

19 **5. Gary Fitzsimmons, Vice-President of Security**  
20 **c/o John F. Lomax, Jr., Snell & Wilmer**  
21 **One Arizona Center**  
22 **400 E. Van Buren**  
23 **Phoenix, AZ 85004-2202**  
24 **(602) 382-6305**

25 Mr. Fitzsimmons is expected to testify regarding Swift's screening of job  
26 applicants with criminal histories, his knowledge of Plaintiffs' application process and the  
27 allegations contained in the First Amended Complaint.

28 **6. Angelica Flores, Security**  
29 **c/o John F. Lomax, Jr., Snell & Wilmer**  
30 **One Arizona Center**  
31 **400 E. Van Buren**  
32 **Phoenix, AZ 85004-2202**  
33 **(602) 382-6305**

34 Ms. Flores is expected to testify regarding Swift's screening of job applicants with  
35 criminal histories, her knowledge of Plaintiffs' application process and the allegations  
36 contained in the First Amended Complaint.

1           7.     **Michelle Cordoba, Regional Recruiting Manager**  
 2                **c/o John F. Lomax, Jr., Snell & Wilmer**  
 3                **One Arizona Center**  
 4                **400 E. Van Buren**  
               **Phoenix, AZ 85004-2202**  
               **(602) 382-6305**

5           Ms. Cordoba is expected to testify regarding her knowledge of Swift's application  
 6           process and the general number of applicants who apply in-person versus not-in-person,  
 7           the timing of procurement of consumer reports, the Plaintiffs' application process and  
 8           materials and the allegations contained in the First Amended Complaint.

9           8.     **Douglas Driscoll, Recruiting**  
 10                **c/o John F. Lomax, Jr., Snell & Wilmer**  
 11                **One Arizona Center**  
               **400 E. Van Buren**  
               **Phoenix, AZ 85004-2202**  
               **(602) 382-6305**

12           Mr. Driscoll is expected to testify regarding his knowledge of Swift's application  
 13           process, the Plaintiffs' application process and materials and the allegations contained in  
 14           the First Amended Complaint.

15           9.     Custodians of Records as necessary to establish foundation for the  
 16           admission of documents.

17           10.    Any witness identified or disclosed in any party's Disclosure Statements,  
 18           motions, pleadings or discovery responses and not objected to by Defendants.

19           11.    Any witness listed by Plaintiffs, and not objected to by Swift.

20           12.    Any expert disclosed by any party.

21           13.    Any persons subsequently identified through future investigation and  
 22           discovery and determined to be witnesses and not objected to by Swift.

23           **II.    DOCUMENTS SWIFT MAY USE TO SUPPORT ITS CLAIMS OR**  
 24                **DEFENSES.**

25           As this litigation is in the early stages of discovery, Swift has not yet identified all  
 26           documents it may rely upon and reserves the right to supplement this portion of its  
 27           Disclosure Statement. Listing documents now is not an admission that they are  
 28           admissible for all purposes or any purpose. Swift can tentatively identify the following

documents:

1. Daniel Employment Application, Bates labeled STC000001-000005.
2. Daniel Swift Contact Management, Bates labeled STC000006-000010.
3. Daniel Driver Recruiting Process, Bates labeled STC000011-000014.
4. Daniel US MVR Report, Bates labeled STC000015-000020.
5. Daniel Widescreen National Criminal Search, Bates labeled STC000021.
6. Daniel Security File, Bates labeled STC000022-000024.
7. Bell Employment Application, Bates labeled STC000025-000029.
8. Bell Contact Management, Bates labeled STC000030-000034.
9. Bell Driver Recruiting Process, Bates labeled STC000035-000037.
10. Hodges Employment Application, Bates labeled STC000038-000042.
11. Hodges Contact Management, STC000043-000047
12. Hodges Driver Recruiting Process, Bates labeled STC000048-000051.
13. Hodges US MVR Report, SSN Check, Transportation Employment History, CDLIS+, Bates labeled STC000052-000057.
14. Hodges 20/20 Insight Bundled Request for Information, Bates labeled STC000058-000066.
15. Hodges Security File, Bates labeled STC000067-000084.
16. Company Driver Hiring Criteria, effective date April 1, 2011, Bates labeled STC000085-000090.
17. All tangible items produced in response to requests for production, interrogatories or attached to any party's Disclosure Statement, motion or pleading and not otherwise objected to by Swift.
18. All admissible portions of deposition testimony, not otherwise objected to by Swift.
19. Any exhibit listed by Plaintiffs and not otherwise objected to by Swift.

### III. COMPUTATION OF DAMAGES.

Swift is not currently claiming any damages against Plaintiffs. Swift reserves the



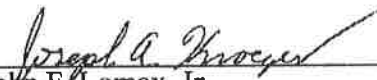
1 right to seek to recover its costs and attorneys' fees incurred in connection with the  
2 defense of this action.

3 **IV. INSURANCE AGREEMENT.**

4 Swift has an Employment Practices Liability Policy, but it is not believed that any  
5 damages available in this action will exceed the self-insured retention level under that  
6 policy. Swift will supplement this response if doing so becomes appropriate.

7 DATED this 9<sup>th</sup> day of January, 2012

8 SNELL & WILMER L.L.P.

9  
10 By:   
11 John F. Lomax, Jr.  
12 Brian J. Foster  
13 Joseph A. Kroeger  
14 One Arizona Center  
15 400 E. Van Buren  
16 Phoenix, AZ 85004-2202  
17 Attorneys for Defendant  
18  
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26  
27  
28

Snell & Wilmer

LLP  
LAW OFFICES  
One Arizona Center, 400 E. Van Buren  
Phoenix, Arizona 85004-2202  
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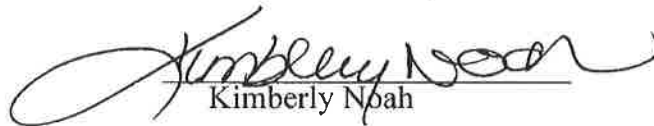
**CERTIFICATE OF SERVICE**

I hereby certify that January 9, 2012, I sent via U.S. Mail a copy of the foregoing document to the following:

Dennis M. OToole  
Anthony R. Pecora  
Matthew A. Dooley  
Stumphauzer OToole McLaughlin  
McGlamery & Loughman Company  
5455 Detroit Rd.  
Sheffield Village, OH 44054

Leonard Anthony Bennett  
Susan Mary Rotkis  
Consumer Litigation Associates PC  
12515 Warwick Blvd., Ste. 100  
Newport News, VA 23606

Nicholas Jason Enoch  
Stanley Lubin  
Lubin & Enoch PC  
349 N 4<sup>th</sup> Ave  
Phoenix, AZ 85003

  
Kimberly Noah

**Snell & Wilmer**

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